Municipal Council HANDBOOK

2017 Interim Edition

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Author's Preface

The Municipal Council Handbook is intended to build capacity in all Newfoundland and Labrador municipal councillors and administrators. The first Handbook was prepared in 1987 and last updated in 2002. There is significant change since that time and key partners including the Department of Municipal Affairs and Environment. Municipalities Newfoundland and Labrador and the Combined Councils of Labrador, along with the Professional Municipal Administrators, felt an updated, revised, and enhanced handbook was needed.

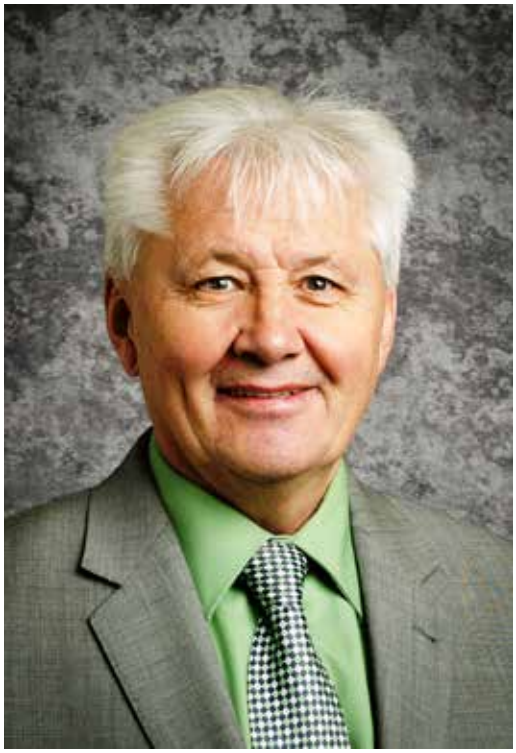
Earlier editions were prepared by Dr. Peter Boswell of the Department of Political Science at Memorial University of Newfoundland. His leadership and guidance over the years have helped to raise the bar in effective municipal governance and administration. This handbook borrows liberally from Dr. Boswell's work, updating and interpreting to meet modern circumstance. An experienced eye will see elements of Dr. Boswell's clarity of thought and considered experience throughout, so much so that it is difficult to provide proper citations on a reference by reference basis.

The completion of this handbook relied on the ongoing input and support of the project Steering Committee, led by the Department of Municipal Affairs and Environment. Additional members included Municipalities of Newfoundland and Labrador, the Combined Councils of Labrador, and the Professional Municipal Administrators. Keen practitioner insight was provided by Town Manager Adele Carruthers of the Town of Logy Bay-Middle Cove-Outer Cove and Town Clerk Geraldine Caul of the Town of Witless Bay. Councillor Ken Mercer, of the Town of Logy Bay-Middle Cove-Outer Cove, provided other insights through the eyes of an average municipal councillor in the province. Thank you to Brenda Andrews of Image 4 for design and layout and Mobilewords Limited for editing.

There are 271 municipalities in the province, led by councillors and administrators who are motivated by little more than doing the very best they can for their communities. Hopefully this Handbook will help you fulfill your responsibilities, encouraging active, engaged and successful communities. This Handbook is dedicated to all municipal councillors – past, present and future.

Pat Curran
Editor
Independent Consultants Group

Minister's Message



Residents throughout Newfoundland and Labrador rely upon municipal councils to deliver important services in our towns and cities. Councillors are the backbone of local governance, and you are instrumental in making our communities sustainable, safe, healthy, and happy places to live and work.

The Municipal Council Handbook is for municipal councils, councillors, and staff, and contains information and guidance on applicable legislation and best practices. The handbook, along with regular municipal training provided by the Department of Municipal Affairs and Environment, Municipalities Newfoundland and Labrador and the Professional Municipal Administrators, are key resources for councils, councillors, and staff as they undertake their municipal duties.

On behalf of the Government of Newfoundland and Labrador, I would like to thank all those who have contributed to this handbook. I encourage everyone involved in local governance to use the Municipal Council Handbook as a resource tool to assist in providing effective leadership, representation and knowledgeable administration in their communities.

Honourable Eddie Joyce
Minister of Municipal Affairs and Environment

Newfoundland Labrador

Municipalities Newfoundland & Labrador Message

Municipalities Newfoundland & Labrador (MNL) was formed in 1951 to represent the interests of the growing number of municipal councils in the province. At that time, there were approximately 50 incorporated municipalities in the province. Today there are 271 incorporated municipalities representing 89 percent of the provincial population. Over 97 percent of these councils are paying members of MNL and drive our considerable advocacy and policy efforts.

MNL is pleased to have partnered with the Department of Municipal Affairs and Environment, the Professional Municipal Administrators and the Combined Councils of Labrador on this significant update to the Councillors Handbook. The new design, format and content will make it a much more user-friendly experience for members of council.

It should be seen as an equally valuable resource for councils to use jointly with their staff. A productive relationship between council and staff is foundational to a successful municipality. This handbook provides a common reference for all of us to use in running effective, efficient municipal governments.

Our thanks to everyone involved in the creation of the handbook for your ideas and your time. It is an excellent resource for anyone involved in municipal government.

Karen Oldford
President

Professional Municipal Administrators Message

Professional Municipal Administrators (PMA) is Newfoundland and Labrador's lead organization on municipal management issues. PMA is a municipal association for Managers, Clerks, Chief Administrative Officers and Department Heads who are committed to improving the quality of administration in local government.

PMA is committed to providing information, professional development and training, improved communication, resources, and professional support to municipal administrators as a means to increase the knowledge of its members.

Administrators are an invaluable resource and an important asset for all municipalities. The administrators' key roles include carrying out policy as directed by Council, providing administrative leadership, and managing organizational resources.

The purpose of this guide is to assist elected municipal officials in Newfoundland and Labrador. One key area Council needs to understand is the role of staff. Once this relationship is understood, the municipality will operate in a professional and efficient manner, improving the overall effectiveness of local government in this province.

PMA encourages all Council members and municipal administrators to reference this guide. A special thank you to all those who have contributed to its content and made it possible.

Brian Peckford
President

Combined Council of Labrador Message

The Combined Councils of northern Labrador was formed in 1972 when the communities of Nain, Makkovik, Davis Inlet and Hopedale met for an inaugural conference to address issues that were similar in each municipality. Together as a united voice they lobbied government officials for improvements in their region. In 1979, the Combined Councils of Labrador met in North West River and expanded to include all communities in Labrador, forever changing the face of Labrador politics.

In January of 2007, the Combined Councils of Labrador (CCL) held its annual General Meeting in the community of Nain, Nunatsiavut. It was at this meeting (the 35th annual meeting) the member communities in attendance voted to amend the Combined Councils of Labrador Constitution to include any incorporated Municipality, Local Service district or permanently recognized community or aboriginal Community Government and/or First Nations Community (incorporated either by or under a special or general act of the legislature) may become a member of the Combined Councils of Labrador on payment of the current membership dues.

The CCL has evolved into an umbrella organization for all communities to help lobby both levels of government for improved services and infrastructure within Labrador. From its early beginnings, the Combined Councils of Labrador has grown in scope and capacity to acknowledge municipal governance as the vehicle of choice for economic development, community living, social challenges, infrastructure activities and strives for leadership in advocacy, policy development, research and municipal training.

The CCL is pleased to partner with the Department of Municipal Affairs and Environment, Municipalities Newfoundland and Labrador and the Professional Municipal Administrators in preparing this updated Handbook.

Trent O'Brien
President

Combined Councils of Labrador
www.combinedcouncils.ca

Introduction

What is the Municipal Council Handbook?

This Municipal Council Handbook is prepared as a resource for municipal councillors and administrators in Newfoundland and Labrador. It highlights the role of local government in fostering sustainable communities and providing vital services and programs to residents. The Handbook is grounded in both relevant legislation and emerging best practice in municipal governance in Newfoundland and Labrador.

Why a Municipal Council Handbook?

Municipalities in Newfoundland and Labrador, with the exception of the cities of St. John's, Corner Brook and Mount Pearl, operate within a common legislative and regulatory framework. This means that common approaches, practices and procedures should be shared and used by all municipalities to ensure consistency and clarity. The Municipal Council Handbook will support municipal councils, councillors and administrators so that they can do their work effectively and efficiently.

The Handbook provides municipal councillors and administrators with important context not only on **what** the legislative and regulatory consideration are but on the **how**, identifying key issues and providing advice on process and procedure based on the experience of people at the council and administrative levels of local government.

The Handbook should always be used with reference to the specific requirements of the legislation along with other supports available from the Department of Municipal Affairs and Environment (MAE), Municipalities Newfoundland and Labrador (MNL), the Combined Councils of Labrador (CCL) and the Professional Municipal Administrators (PMA).

Who should use this Handbook?

The Municipal Council Handbook is a resource for all municipal councils, councillors and administrators in the province regardless of experience. The Handbook is also useful for those contemplating service as a municipal councillor or administrator and for anyone interested in the operations of local government.

What areas does the Municipal Council Handbook cover?

The Municipal Council Handbook covers the following content and also makes provision for the inclusion of council-specific material relevant to an individual municipality such as operating procedures, and regulations. This enables the Handbook to be a practical resource for councillors and administrators in their conduct of meetings and ongoing council activities.

SECTION 1

Municipal Government in Newfoundland and Labrador gives a brief background to local government, its relationship to other levels of government, its history, relevant legislation and an introduction to key municipal responsibilities.

SECTION 2

Councillor and Council Roles and Responsibilities considers the function of municipal councillors and their obligations to council, the role of the mayor and deputy mayor, the personal and collective liabilities of councillors and council, considerations on conflict of interest and the distinction between the policy function of council and the role of town administrators.

SECTION 3

Roles and Responsibilities of Staff and Human Resources defines the position of municipal administrator, introduces the key positions of Clerk and Town Manager, the process of creating departments and the hiring of department heads and other staff, human resource policy including collective bargaining and council's obligations to staff under various legislation including the *Labour Relations Act* the *Labour Standards Act* and the *Occupational Health and Safety Act*.

SECTION 4

Council and the Conduct of Business focuses on the requirement for rules of procedure, the various types of council meetings, the process of calling a meeting including notice of meeting and preparing the agenda and other documents, the importance of minutes, how to conduct a meeting including motions, debate and voting. The section also considers council committees and appointments to external organizations.

SECTION 5

Council as Policy Maker, Regulator and Planner provides an introduction to the public policy process, council policy approaches, the value of a municipal plan and the process of developing a municipal plan, regulations, enforcement and the distinction between regulations, resolutions and other decisions of council.

SECTION 6

Council Budgeting and Financial Administration considers the importance of sound financial planning and management, the requirement for annual budgeting, the distinction between current and capital budgets, the municipal budget template, sources of revenues and allowable taxes and fees and the requirement to set an annual fee structure, types of expenditure, financial statements and audit, procurement and compliance with the *Public Tender Act* and the disposal of assets.

SECTION 7

Council Communications and Citizen and Stakeholder Engagement provides insight into how councils can support accountability, transparency and engagement with its residents, staff, community organizations and businesses, and regional partners.

SECTION 8

Council and Good Governance provides a summary of emerging best practice in municipal administration, highlighting the importance of long term strategic planning and sustainable development, adherence to quality management processes and continuous improvement, effective project management, managing risk and mitigating threats to the community and municipal government.

SECTION 9

Municipal Project Financing and other Council Resources provides an overview of municipal financial programs, including the Gas Tax Fund (GTF), Municipal Capital Works (MCW) and other supports available through the Government of Newfoundland and Labrador and the Government of Canada along with an inventory of various supports and other programs and resources relating to municipal government and administration.

SECTION 10

My Council allows individual councils to build their own council-specific content for new and current councillors. Content in this section can include Rules of Procedure, summary of committees, membership and terms of reference, key contact information for councillors and staff, annual budget and tax schedule, summary of Conflict of Interest guidelines and disclosure statements.

For New Councillors

You are a typical citizen who felt you could make a positive contribution to your town by 'throwing your hat into the ring' - now you are an elected councillor. As a first time councillor there are several things you need to learn before you attend your first meeting.

Orientation Package and Handbook

Your first step is to become familiar with the town and how the council operates. An orientation package can assist you with the knowledge you need to become an informed and effective councillor. An orientation package should include the following:

- Rules of Procedure
- Minutes of last three to six months of council meetings
- A copy of the current year budget
- A copy of the Town Plan, if the Town has one
- A copy of the Town's staff organizational structure

Disclosure Statement

You are required to complete an annual disclosure statement outlining your business and property interests in the town within 60 days of taking office. The clerk has a copy of a disclosure statement template that you can use. Councillors' disclosure statements are reviewed at a privileged meeting of council within 30 days after filing – this is to provide councillors with a sense of each other's financial interests. It is advisable at the first meeting of council to set a date for the review, reminding all councillors of their obligation to file the statement with the clerk.

Appointment of Mayor and Deputy Mayor

The *Municipalities Act, 1999* requires a mayor or deputy mayor or both, to be elected by secret ballot of council if they were not publicly elected as mayor or deputy mayor. You should be familiar with the background, education and experience of other councillors to aid you in making a decision on who best might fill these roles.

Appointment to Committees and External Organizations

Many councils maintain standing committees in key areas and also have representatives on external committees such as regional joint councils. At an early council meeting following the election, appointments to committees should be considered. The legislation provides for committees to be appointed by council and/or the mayor and the process for establishing committees is outlined in the Rules of Procedure.

You should review the terms of reference for committees to determine their relevance. Sometimes these terms of reference are in the Rules of Procedure and the purpose of the committee is clearly defined. If this is not the case, it is important to ensure committees, if established, have a clear understanding of their roles, responsibilities and reporting relationships to council and as well, that individual councillors have some understanding of the level of engagement required to serve on various committees. If you have a particular knowledge or interest in a committee, make your views known to the mayor and council.

Relation of Council to Clerk/Administrator

As a new councillor, your understanding of the role of the clerk and/or town manager is critical. Both act at the direction of council, not individual councillors. It is generally inappropriate for individual councillors to provide day to day direction to staff unless this is agreed to by council.

The clerk and/or town manager are the best resource available to a new councillor seeking background information to help understand the reasons a particular decision was made. You should be mindful that council offices are very busy places and that your need for information is balanced against the clerk and/or town manager responsibilities – in short, councillors can ask but not expect them to drop everything to meet the request.

Conduct of Councillors

You assume a significant responsibility on behalf of your town and its residents. A council meeting is a forum of procedure and councillors new and experienced should always be mindful to conduct themselves in a professional and respectful manner.

Conclusion

Serving on council provides people with an opportunity to contribute to their town while fostering a sense of personal growth, learning and development. Being a member of an effective and accountable council provides the satisfaction of serving your fellow citizens and building the future of your town.

How to use the Handbook

As the Handbook is intended as a learning resource, each section is colour-coded to enable easy reference. Each section begins with a table of contents highlighting key areas and is followed by a summary of content and learning objectives within that section. This is followed by key terms identified throughout the section. To highlight key issues, a series of recurring features are included throughout. For example, relevant legislation is highlighted through a feature called **What the Legislation Says**.

Example

What the Legislation Says

Section 94 of the *Municipalities Act, 1999* states:
(2) A council shall, before the end of each year, submit to the department a 5-year forecast of its anticipated capital expenditure requirements.

Legislative references focus for the most part on municipalities covered by the *Municipalities Act, 1999*. Councillors and staff of the City of St. John's, the City of Corner Brook and the City of Mount Pearl should refer to their own respective legislation for additional guidance.

This Municipal Council Handbook focusses on the role of the clerk and town manager, either as separate positions or combined, and outlines other appointments such as department heads. The administrator's role is identified through a feature called **Role of the Clerk/ Administrator.** This feature is highlighted in red, representing the logo of the PMA but also reinforcing the significance of effective council/administrator relations.

The *Municipal Administrator's Handbook* defines a municipal administrator as:
- City/town clerk
- City/town clerk/manager
- City/town manager
- Chief administrative officer (CAO)
- Administrator

Example

Role of the Clerk/Administrator
Section 148 of the *Municipalities Act, 1999* enables the clerk to serve on a tenant a written notice signed by the clerk requiring the tenant to pay his or her rent to the council instead of to the tenant's landlord and to credit against the indebtedness of the landlord to the council, payments made by tenants until the landlord's liability has been completely discharged.

Emerging issues, trends and best practices are noted through a feature called **Best Practice.**

Example

Best Practice
One of the emerging trends with respect to accessing provincial and federal grant programs is the increasing requirement for local governments, and other proponents, to demonstrate first a financial contribution toward overall project cost and a second a capacity to sustain the activity once the initial grant is utilized, programs established or facilities and infrastructure built.

Frequently asked questions are identified through **FAQs.**

Example

FAQ - Do we have to keep minutes at a privileged meeting?

The minutes of privileged meetings are adopted by council at a public meeting and any resolution from a privileged meeting must be re-introduced, moved, seconded, and passed at a public meeting in order to be valid. Once the minutes of a privileged meeting are adopted they are made available to the public on request.

Additional material such as agendas, minutes and process are included in graphic format and may be used as templates or checklists for individual councils.

Example - Process of Developing a Municipal Regulation

Procedure	Rationale
Notice of Motion	The introduction of a notice of motion allows time before the next council meeting for the town clerk to advise council of any existing regulations on the subject and for any interested member of the public to make their views known.
Motion to Draft Regulation	At the next meeting following the notice of motion, a motion to draft the required regulation is passed. This motion states the section of the *Municipalities Act, 1999* which gives council the authority to pass a regulation on the matter, and states as clearly as possible the provisions of the proposed regulation.
Obtain Legal Advice	The motion to draft the regulation is sent for a legal review along with existing regulations on the subject. It is strongly recommended council receive advice from a lawyer with regard to the precise wording of the regulation.
Pass the Regulation	Section 413 of the *Municipalities Act, 1999* states all regulations must be passed by resolution of council. The complete regulation is read at a council meeting or distributed beforehand, and care must be taken the vote is property conducted in accordance with Section 212 and that the results are clearly recorded in the minutes.
Advertise the Regulation	While the *Municipalities Act, 1999* does not require the public be advised of a new regulation, it is strongly recommended council advertise the passage of all regulations and amendments in the most effective way possible.
Send a Copy to the Minister	Section 413(2) of the *Municipalities Act*, *1999* requires that a copy of all regulations passed by a council be sent to the Minister within 14 days of their adoption. Such copies are certified by the town clerk. It should be noted that any regulations on the following matters require the approval of the Minister **before** coming into effect: • To prevent pollution of watersheds outside the town boundaries: Section 414(2)(u); • Control and management of the town fire department: Section 414(1)(e)(i).
File in a Policy Manual	In order that successive councillors and staff have a clear idea of existing regulations, a policy manual is kept in which regulations are summarized alphabetically and by subject area. The complete wording of regulations is also included, and the manual must be kept up to date.

In some instances, examples are provided to illustrate issues.

Example - Benefits of Full versus Part-time Clerk
Councils are required to prepare an annual audited financial statement. If the auditors have to spend a lot of time doing the bookkeeping and reports which the clerk never had time to do, council will be billed for the auditor's additional time, resources that might be better used to increase the clerk's time.

Each section concludes with references and resources cited in the preceding section and much of this material is available online.

An Index of terms is provided at the end of the Handbook for quick reference purposes.

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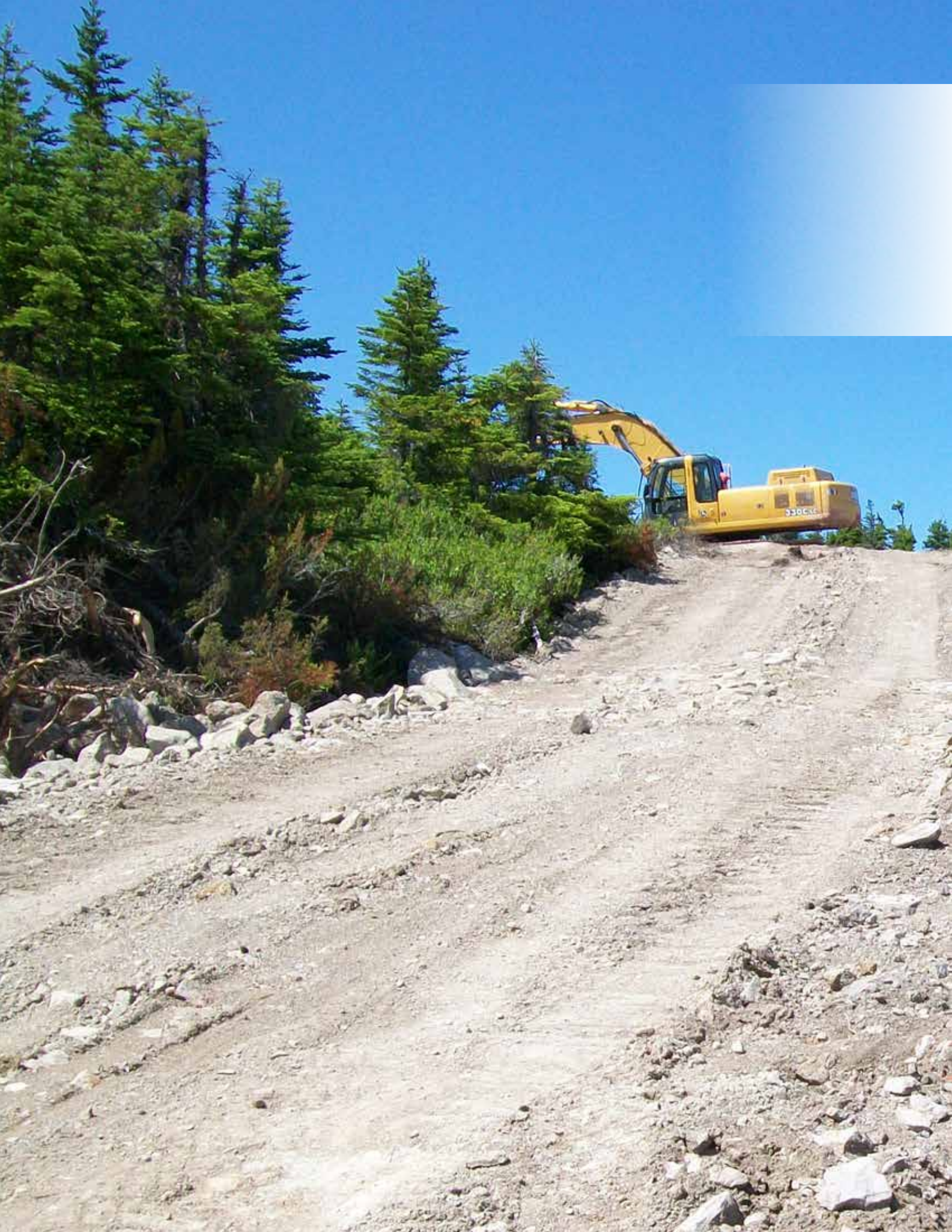
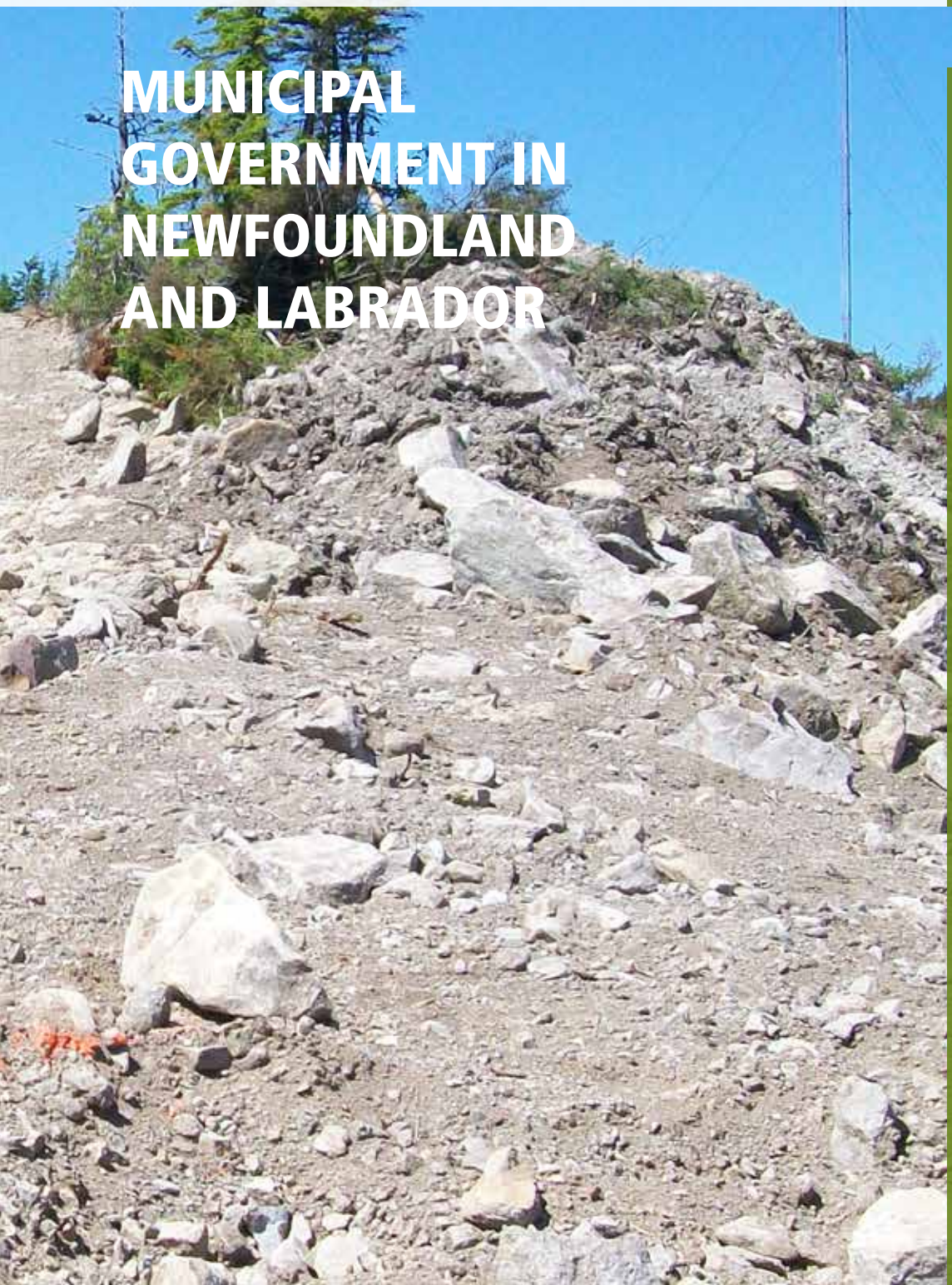


SECTION ONE



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Municipal Government in Newfoundland and Labrador

1.1 Section Overview

This section provides background on the origins and significance of municipal government in Newfoundland and Labrador, its relationship to other levels of government and its constitutional and legal standing. It gives a sense of the historical development of municipal government in the province, introduces relevant legislation and highlights key municipal responsibilities.

Objectives

After completing this section you will understand the following:

- *The background to municipal government, its role in democracy, citizen engagement and civil society, and its significance in local/regional services delivery*
- *The relationship of municipal government to other orders of government (Federal and Provincial) and the constitutional and legal basis of local government*
- *History and milestones of Newfoundland and Labrador municipal government*
- *Newfoundland and Labrador municipal and related legislation*
- *Key municipal responsibilities*

Key Terms	
Commission of Government	A non-elected body that governed Newfoundland from 1934 to 1949. Established following the collapse of Newfoundland's economy during the Great Depression, it was composed of civil servants who were directly subordinate to the British Government in London.
Confederation	The union of Canada and Newfoundland in 1949, creating Newfoundland as a province within the Canadian federation.
Discretionary (services)	The ability of councils to undertake as broad or narrow a range of services as they wish within their authority.
Fee-for-service arrangement	An arrangement where one municipality provides a service to another municipality (or group of municipalities) at a set a rate for service (per unit or flat fee).
Joint service (or shared service) arrangement	An arrangement where a service is provided jointly by two or more municipalities, usually with an associated governance model comprising the participating municipalities.
Regional Cooperation	Government policy that encourages greater regional cooperation and collaboration in service delivery and provides supports and other incentives to encourage regional collaboration.
Responsible Government	A form of government grounded in English parliamentary tradition, where the Executive Council, or government, was "responsible" to the legislature. Responsible government was granted to Newfoundland in 1855.

1.2 Significance of Local Government

A local level of government has responsibility over matters directly related to local communities. Like the other levels of government, local governments have political leaders and institutions such as mayors, councillors, directors, agencies, boards, commissions, committees and managers. It is at the municipal level citizens can most easily contact their elected representatives, allowing citizens to take part in governing their communities as they inevitably know their own needs much better than anyone else. Many view local government as the basis of democracy.

Local government is also a training ground for those who want to further participate in the political process. Many members of Parliament and provincial legislatures were first elected at a municipal level, and the training they received there helped prepare them for their roles at the national or provincial levels. In particular, representing citizens and deciding among conflicting demands for scarce council resources are useful learning experiences.

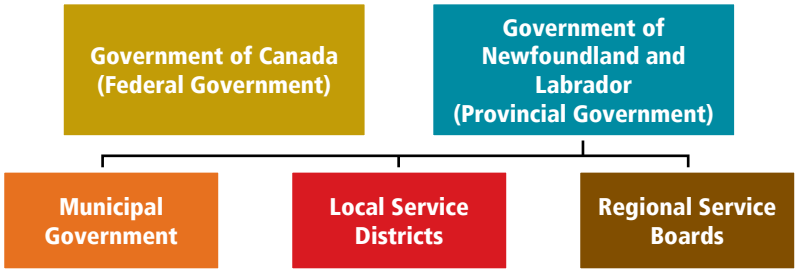
The most immediate role of municipal government is the provision of services. It is only at the local level that citizens can decide for themselves the nature and extent of services for which they are willing to pay. Local government allows for a greater degree of flexibility than is the case if decisions are made by a centralized agency of the provincial government.

1.3 Local Government as an Order of Government

Canada enjoys four orders of government: federal, provincial, territorial, and local. The Canadian Constitution provides separate Federal and Provincial jurisdictional powers and shared powers. The federal (national) government, which includes Parliament and the Senate, is responsible for areas affecting all Canadians, national defence, foreign policy, criminal law, and citizenship, for example. Territorial administration, once a federal power, is now delegated to territorial assemblies. Provincial legislatures deal with health care, education, transportation (highways), property rights and civil rights.

Municipalities are not recognized as a separate order of government by the Canadian constitution. Their powers instead devolve from a provincial government through provincial legislation, such as the *Municipalities Act, 1999* or the *City of Mount Pearl Act, 1990*. All municipalities, therefore, operate within relevant provincial legislation and their jurisdiction is limited to those things explicitly authorized by the legislation and only within the municipal boundary established by the province.

Local Government as an Order of Government in Canada



1.4 History of Local Government in Newfoundland and Labrador

Municipal governments were set up in Newfoundland and Labrador following the establishment of **Responsible Government** in 1855. Before that there were a few water companies and local roads boards. Responsible Government, grounded in English parliamentary tradition, meant the Executive Council, or government, was "responsible" to the legislature. St. John's was incorporated as a town in 1888 and as a city in 1921. In 1938, Windsor was the first municipal incorporation outside St. John's; the first of about 20 incorporations during **Commission of Government** (1934-1949). Although a *Local Government Act* was passed in 1933, it was not until the *Local Administration Act* of 1937, and adoption of the practice of passing a special act for each municipality in 1942, that municipal incorporations began to grow.

Following **Confederation** with Canada in 1949, a new *Local Government Act* was passed, and in 1952, the *Community Councils Act* came into being. By 1955, 53 municipalities were incorporated. Real growth occurred over the next 15 years, and by 1972 the Royal Commission on Municipal Government in Newfoundland and Labrador (the *Whalen Commission*), found the number of municipalities had risen to nearly 300. Many of the Commission's recommendations were included in the *Municipalities Act, 1979* and the *Municipal Grants Act, 1980*, both since repealed.

Little change in municipal structures or operations occurred until the amalgamation policy initiative of 1989-1990. For a variety of reasons, many proposed amalgamations were abandoned but by the end of the initiative, 33 councils were amalgamated into 13, leaving the total number of municipalities slightly reduced at around 280.

In 1996, the Minister of Municipal and Provincial Affairs issued *The Time for Regionalization* and appointed a Task Force to undertake a province-wide public consultation. The 1997 final report recommended a number of Regional County Services Boards be established to provide regional municipal integration and services. Although the provincial government did not act on this recommendation, a provision for regional structures was included in the *Municipalities Act, 1999*.

The *Municipalities Act, 1999* came into force on January 1, 2000. It consolidated amendments to the 1979 Act, removed restrictive provisions, expanded municipal authority, and permitted a greater degree of local decision making. It also increased municipal autonomy over taxation, administration and financial management, made new authority for economic development and new and expanded authorities for service delivery and municipal controls.

The *Regional Service Boards Act* gave a legal framework for shared service arrangements among municipalities in relation to regional waste management, water supply, recreation, fire protection and other services through the creation of new agencies to deliver particular regional services. The *Act* was further amended in 2012. Since 1997, the provincial policy of no forced amalgamation favours **regional cooperation**, encouraging local governments to consider and become engaged in regional options.

Historical Development of Municipal Government in Newfoundland and Labrador

Date	Milestone
1888	St. John's Incorporated as a Town
1921	St. John's Incorporated as a City
1933	*Local Government Act* passed
1934	Commission of Government
1937	*Local Administration Act* passed
1938	Windsor first Town incorporated outside St. John's
1942	Commission of Government adopts policy of separate acts for each new incorporation
1949	Confederation with Canada
1949	New *Local Government Act* passed allowing incorporation of local government by Order in Council
1951	Predecessor to MNL, Newfoundland and Labrador Federation of Municipalities formed.
1952	*Community Council Act* passed
1953	53 local and community councils
1972	Combined Councils of Labrador (CCL) formed
1972	Predecessor to PMA, Newfoundland and Labrador Association of Municipal Administrators (NLAMA) formed
1972-1974	Royal Commission on Municipal Government in Newfoundland and Labrador (Whalen Commission) Close to 300 local municipal and community councils
1979	*Municipalities Act*
1980	*Municipal Grants Act*
1989-1990	Amalgamation initiative
1990	*Regional Service Boards Act* passed
1997	Task Force on Regionalization
1999	*Municipalities Act, 1999* passed
2003	Predecessor to MNL's Community Cooperation Office (CCO), Community Cooperation Resource Center (CCRC) established.
2004	*Regional Service Boards Act* proclaimed
2008	*Emergency Services Act* passed
2012	*Regional Service Boards Act* amended to address administrative and operational matters and to create greater consistency between the governance of municipal councils and regional service boards

1.5 Introduction to Relevant Legislation

Municipal authority is vested in the *City of St. John's Act*, the *City of Corner Brook Act*, the *City of Mount Pearl Act,* and the *Municipalities Act, 1999*. Each city or town is constituted under the authority of a relevant *Act* and is established consistent with the relevant *Act* in terms of its feasibility, definition of area served, and the structure of its council.

The *Municipalities Act, 1999* makes financial matters the primary authority of a municipal council and requires setting an annual budget and tax schedule, proper accounting, and sound financial administration. Taxes and fees collection implies those resources are applied to services, many of which are considered **discretionary**, meaning councils may undertake as broad or narrow a range of services as they wish within their authority (see Section 1.6 below). The *Act* requires councils to:

- adhere to a fiscal year (i.e. January 1 – December 31)
- maintain a bank account(s) in a recognized financial institution
- prepare and submit an annual budget to the Minister
- appoint an auditor to prepare audited financial statements
- request approval from the Minister for borrowing, and
- set taxes and associated fees

There are a number of other acts that apply to the activities of municipal councils outlined in the various sections of this handbook.

Other Acts

Act	Relationship to Municipal Government
Access to Information and Protection of Privacy Act	Relates to council's obligations with respect to access to information and privacy.
Animal Health and Protection Act	Relates to the Minister's authority to delegate administration of all or a portion of the *Act* to a municipality.
Assessment Act	Applies when Councils adopt a property tax model of taxation.
Crown Corporations Local Taxation Act	Exempts Crown Corporations from local taxes.
Environmental Protection Act	Requires Ministerial approval (certification) for waste disposal sites and governs their operation.
Fire Protection Services Act	Gives the Fire Commissioner authority to ensure compliance with fire/life safety regulations and appoints local assistants, normally municipal fire chiefs.
Firefighters' Protection Act	Applies to liability and protection of firefighters and fire departments as established under the *Municipalities Act, 1999*.
Health and Community Services Act	Gives the Minister authority over sewage treatment, restricted areas, and unfit dwellings.
Highway Traffic Act	Gives the Minister authority to delegate to council the power to make regulations in their boundaries consistent with the *Act*.
Housing Act	Applies to municipal provision of public housing.
Labour Standards Act	Requires municipalities, as employers, to adhere to the *Act*.
Liquor Control Act	Requires municipalities to approve permits for the sale of liquor in their boundaries and the conditions under which a community may declare itself free of alcohol sales.
Municipal Affairs Act	Authorizes the Department of Municipal Affairs and Environment to administer municipal affairs in the province.
Occupational Health and Safety Act	Requires municipalities, as employers, to adhere to the *Act*.
Public Tender Act	Requires municipalities to adhere to the *Public Tender Act* in the procurement of goods and services.
Regional Service Board Act	Relates to the establishment of regional service boards for service delivery, primarily waste management, in regions.
Taxation of Utilities and Cable Television Companies Act	Applies to municipal taxation of utilities and cable companies.
Urban & Rural Planning Act	Sets the conditions in which municipal and regional land use plans are undertaken.
Water Resources Act	Applies to the municipal role in water resources management and approving, constructing and maintaining sewage and water systems.

1.6 Municipal Responsibilities

It is the role of a municipal council to identify needs and decide which are most important, how best to provide for them with consideration to regional cooperation and how to raise the necessary money to pay for them. In doing so, Council makes political judgments - deciding how to allocate resources. The importance of the municipal level of government is that these choices are made locally by elected representatives who are easily contacted by constituents.

Council may approach service delivery by undertaking the development of municipal services such as roads, water systems and other services or infrastructures within the town only or they may partner with other municipalities or regional partners to provide services, often through **fee-for-service** or **joint service (also known as shared service) arrangements**. The *Municipalities Act, 1999* provides the main authority for councils to undertake any number of *mandatory* or *discretionary* activities.

Municipal Activities

Activity	Rationale
Appoint Staff	Council *must* appoint a Town Clerk and *may* appoint a Town Manager or other staff such as municipal enforcement officers, a fire chief, and department heads.
Water and Sewer	Council *may* develop and operate water, sewage and storm drainage systems and levy a tax for these services.
Capital Works and other Infrastructure	Council *may* divert watercourses, construct, own and maintain highways and parking lots, construct recreation and other public facilities, and make grants and loans to support such facilities. Council *may* expropriate land and buildings to facilitate capital works and infrastructure.
Planning and Regulations	Councils *may* initiate a municipal plan, including development regulations, and must adhere to the Plan once approved by the Minister. Consistent with the Plan, Councils *may* issue permits and orders, and make regulations. A town plan, *may* provide for heritage areas and the designation of heritage buildings and business improvement areas (BIA). Council *may* also undertake economic development plans and provide resources to support economic development.
Fire and Emergency Services	Council *may* provide fire departments and other emergency services including fire halls and equipment, or they may undertake joint service or fee-for-service arrangements with other towns for these services.
Waste Disposal	Council *must* provide for the collection and disposal of residential waste. This may be accomplished through joint service or fee-for-service arrangement with other towns and/or regional service boards. Currently, within the province, there are six Regional Service Boards managing waste and waste disposal sites. By 2020, the entire province will be managing waste through a regional waste management plan in accordance with the *Regional Service Board Act.*
Ability to Enter into Agreements	Councils have the authority to enter into agreements including short term and long term borrowing, joint service and fee for service arrangements, contracts for services with external providers and with Federal and Provincial agencies for the provision of project financing.
Recreation and related programming	In addition to recreation and public facilities, Council *may* provide for the development and delivery of recreation programs including public libraries.

Other Services and Responsibilities

A council may provide street lighting and is responsible for street naming and civic numbers. It may remove vehicles which hinder the safe flow of traffic in its boundaries. It may provide snow removal and ice control; may provide for public transportation and proscribe the licensing of taxies. A Council can enact by-laws for the control of animals within the town, maintain animal shelters and levy a licensing fee for animals. Council may also establish a curfew and noise control bylaws. Council may initiate plebiscites on key issues impacting the town.

Reference Material/Other Reading

Department of Municipal Affairs and Environment, http://www.mae.gov.nl.ca/index.html

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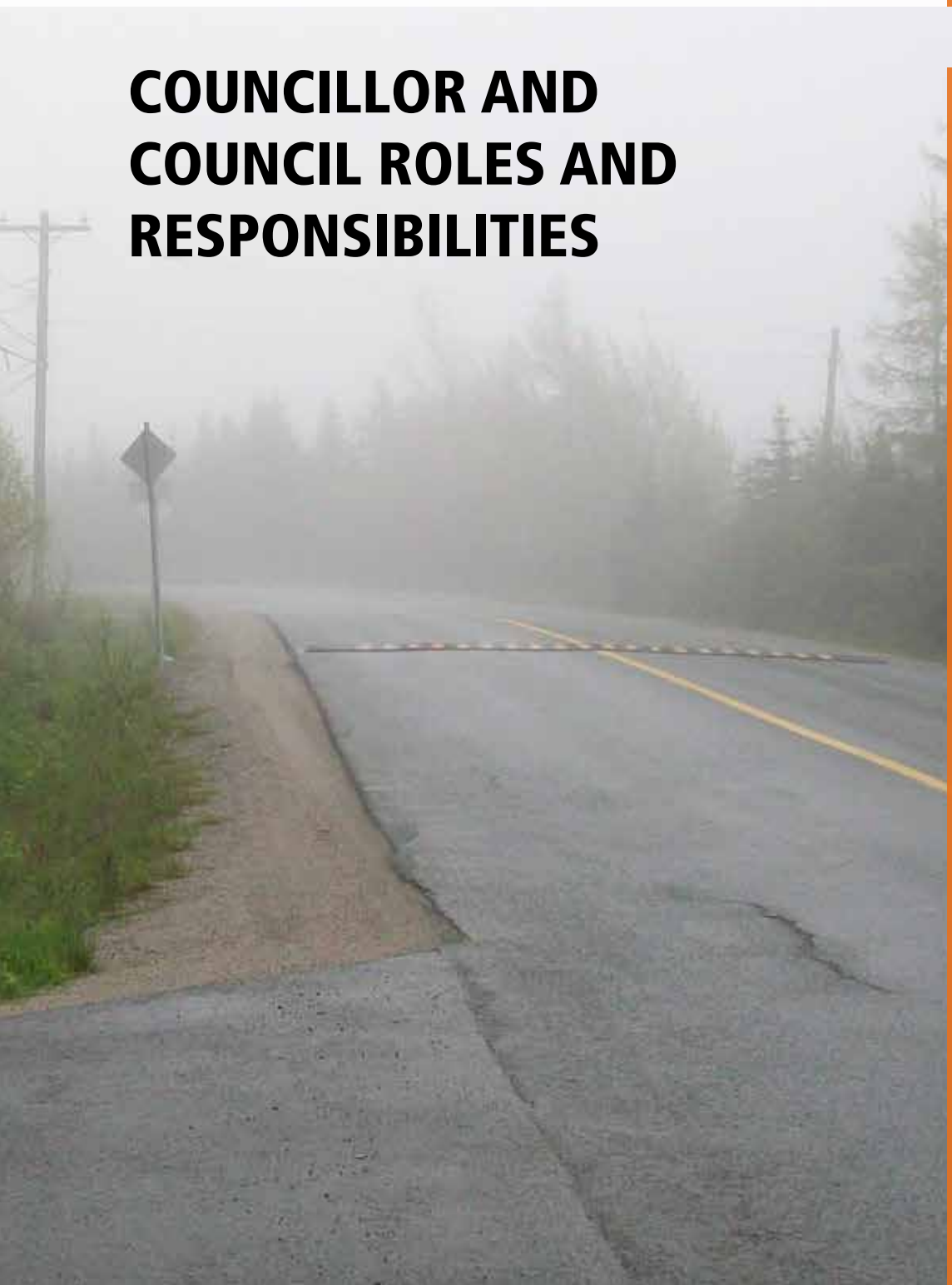
SECTION TWO



COUNCILLOR AND COUNCIL ROLES AND RESPONSIBILITIES

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Councillor and Council Roles and Responsibilities

2.1 Section Overview

This section considers the roles and responsibilities of a municipal councillor, the lead role of the mayor, and the relationship of a municipal council and its councillors to staff, distinguishing between council's policy function and staff's administrative function.

Objectives

After completing this section you will understand the following:

- *Key responsibilities of a municipal councillor*
- *The councillor's obligations to council*
- *The role of Mayor and Deputy Mayor*
- *Personal and council liabilities*
- *Conflict of interest*
- *The distinction between policy and administration*

Key Terms	
Disclosure Statement	A mandatory statement of the financial interests of councillors to be filed annually with the clerk.
Due diligence	Appropriate carefulness: the degree of care that a prudent person would exercise, which is a legally relevant standard for establishing liability.
Influence peddling	The illegal practice of using one's influence in government or connections with persons in authority to obtain favors or preferential treatment for another, usually in return for payment.
Liable	Legally obliged or responsible; answerable.
Liability	The state of being liable.
Misfeasance	Refers to a proven act of wrongdoing.
Monetary interest	Defined within the *Municipalities Act, 1999*: refers to an interest or benefit, generally financial, that may be impacted by a decision of council of which a councillor may be part.
Natural justice	In English law, natural justice is technical terminology for the rule against bias (*nemo iudex in causa sua*) and the right to a fair hearing (*audi alteram partem*).
Negligence	A failure to act with such care as would normally be expected in the circumstances.
Nonfeasance	A situation in which a council takes no action on a matter.
Parliamentary immunity	Also known as *legislative immunity*: a system in which members of the parliament or legislature are granted partial immunity from prosecution.
Rules of Procedure	All councils are required to adopt rules of procedure for the conduct of their council meetings. The rules of procedure may also be extended to include other aspects of council operations.
Ultra vires resolution	An illegal resolution.

2.2 Responsibilities of a Municipal Councillor

Municipal councillors have a responsibility to provide balance in decision-making, for sound financial oversight, effective communications, to maintain relations with other levels of government and to comply with relevant legislation.

Five key areas of responsibility

Responsibility	Rationale
Balance what is best for the community	Not deliberately or consistently ignore public opinion, or alternatively, blindly follow public opinion.
Financial oversight	Understand municipal financial operations, ensuring regular revenue and expenditure reports are made and that revenue equals or exceeds expenditure.
Communication	Provide link between citizens and council, providing citizens' views to council and providing council information to citizens.
Provincial - Municipal Relations	Maintain and encourage provincial-municipal relations, recognizing provincial departments must enforce the standards and procedures applicable to all municipalities.
Comply with relevant legislation	Understand relevant legislation and ensure various Acts that govern municipal activities are followed.

2.3 Councillor Obligations

A municipal council is only as effective and efficient as its members. Just as council has a collective responsibility to residents, each councillor has individual duties to the council.

Rules of Procedure

Councils must adopt Rules of Procedure for the conduct of their council meetings and councillors should know and follow the rules of procedure.

What the Legislation Says

Section 24 of the *Municipalities Act, 1999* states:
(3) A town council shall adopt rules of procedure for its meetings.

Prepare for meetings

Before a council meeting, the clerk distributes an agenda, minutes of the previous meeting, and any background documents and information. Councillors read this material to prepare to deal with the issues and to engage in informed discussion.

Best Practice
Council procedures might include an input deadline for agenda changes. Best practice sets the deadline during the latter part of the week before the next meeting.

Attend meetings

Councillors must attend regular council and committee meetings. Missing meetings on an irregular, but consistent basis, causes problems in obtaining a quorum, delays council business and wastes the time of other councillors.

What the Legislation Says

Section 206 of the *Municipalities Act, 1999* states:
(1) The office of a councillor becomes vacant where (f) without leave of the council, he or she
(ii) does not attend regular public meetings of the council for 3 successive months;

Take a position

Councillors have the right and the responsibility, unless in a conflict of interest, to express themselves on all council issues. Councillors *must* obtain council approval to abstain.

What the Legislation Says

Section 212 of the *Municipalities Act, 1999* states:
(2) A councillor shall not abstain from voting on a motion or resolution before the council unless he or she is required to abstain from voting because of a conflict of interest under section 207 or he or she has been permitted to abstain by a majority vote of the other councillors in attendance at the meeting.

Allocate time wisely

Council can take a great deal of time so it is important to distinguish between matters requiring detailed study and discussion and those that may be more routine and can be dealt with quickly.

Best Practice

Time can be conserved by ensuring meetings are run efficiently and by having well-organized policy manuals and an indexed set of regulations as well as other common reference documents.

Be well informed

Councillors, generally, are not held liable for their actions on council, but it is important they are fully aware of the matters discussed and voted and the implications of that vote.

What the Legislation Says

Section 411 of the *Municipalities Act, 1999* states:

(1) An action for damages shall not lie or be instituted against a councillor or member of a local service district committee for anything said or done or omitted to be said or done by that councillor or member in the performance or intended performance of his or her duty or the exercise of a power or for an alleged neglect in the performance or intended performance of his or her duty or exercise of a power under this Act.

2.4 Mayor's and Deputy Mayor's Duties and Powers

Mayor as Council's Presiding Officer

The mayor chairs council meetings. In this role, a mayor:

- Is familiar with rules of procedure and how to apply them consistently and fairly
- Votes like other councillors but only speaks to a subject by leaving the chair
- Ensures municipal regulations are enforced
- Is subject to the direction and control of council and abides by council decisions
- Calls meetings
- Signs cheques, financial statements, and other documents

Mayor as Leader of the Community

The mayor is the official head of the towns and in this role:

- Acts as the town's official head, attends ceremonies and social functions to advance and promotes council objectives
- Promotes civic awareness and encourages citizens to become aware of council activities
- Speaks publicly on behalf of council

The mayor's authority is often represented in the official Chain of Office.

What the Legislation Says

Duties
Section 21 of the *Municipalities Act, 1999* states:
(1) The mayor
(a) shall make all reasonable efforts to ensure that the laws of the town are executed and obeyed and shall advance the aims of the town council; and
(b) shall exercise the powers and perform the duties that may be conferred or imposed upon him or her by the town council or under the Act.
(2) Notwithstanding subsection (1), the mayor is subject to the direction and control of the town council and shall abide by decisions of the town council.

Presiding Officer
Section 22 of the *Municipalities Act, 1999* states:
(1) The mayor, and in his or her absence, the deputy mayor shall preside at all meetings of the town council.
(2) Where both the mayor and deputy mayor are absent from a meeting, the other councillors shall appoint a temporary chairperson who may exercise the powers and carry out the duties of the mayor at the meeting.
(3) The mayor or other person presiding at a meeting of a town council may, when he or she speaks on a subject, be replaced as the presiding person by the deputy mayor or temporary chairperson who may exercise the powers and carry out the duties of the mayor at the meeting.

Meetings
Section 24 of the *Municipalities Act, 1999* states:
(1) The mayor or 2 councillors shall request that the town clerk call and there shall be held, at least once a month, a meeting of the town council to which the public shall be admitted.

Cheques
Section 76 of the *Municipalities Act, 1999* states:
(2) Cheques or orders withdrawing money from an account of a council shall be signed by the mayor or deputy mayor or by the chairperson or deputy chairperson or in the absence or incapacity of both of them, by a councillor designated for that purpose by the council, and countersigned by the treasurer or, where there is no treasurer, by the clerk.

Financial Statements
Section 86 of the *Municipalities Act, 1999* states:
(2) The mayor or chairperson and the treasurer, or, where there is no treasurer, the clerk, shall sign the financial statement and shall attach a report that an auditor has made with respect to the financial statement.

State of Emergency
Section 204 of the *Municipalities Act, 1999* states:

Where, in the opinion of a council, chairperson or mayor, an emergency exists because of
(a) a disaster;
(b) a snowstorm or flood; or
(c) a shortage of water
the council, chairperson or mayor may declare a state of emergency in the municipality or part of the municipality.

Deeds and Documents
Section 217 of the *Municipalities Act, 1999* states:
(1) All deeds and documents to which the council is a party and to which a seal is necessary shall be authenticated by the seal of the council and the chairperson or mayor, and the clerk, when authorized by the council, shall authenticate the deeds and documents by signing and initialing each page of them.

Deputy Mayor Role

In the absence or incapacity of a mayor, the deputy mayor has the powers, and exercises the duties, of a mayor.

2.5 Council and Staff

A council may hire staff for town administration. Considerations on hiring the mandatory position of clerk and the discretionary positions of town manager, department heads and other staff, along with their roles and responsibilities, are detailed in Section 3 - Staff Roles and Responsibilities and Human Resources.

Relationship of Council to Staff

If the separate, but interrelated, roles of councillors and staff are not clearly understood, there is potential for conflict between elected councillors and municipal staff.

Principles of Effective Staff Relations

Understanding of Roles	Rationale
Know what the staff is responsible for	Council should understand what staff do, their responsibilities, and the limits of their authority.
Do not interfere	Council ensures senior staff performs their duties but an individual councillor must not interfere with staff responsibilities or routine administrative matters.
Listen to the staff	Councillors are advised by staff that usually have a long-term understanding of municipal policies and operations. Council is responsible for making policy decisions while staff support the decision-making process and administers policy.

2.6 Liability of Councillors and Council

Municipal law is constantly evolving and court decisions on councillor and council liability vary widely depending on the location, local practice, circumstance, and specific detail.

Best Practice
When in doubt, council should always seek legal advice.

Improper Use of Council Materials or Machinery

Councillors must not give the appearance they are taking advantage of their position. Individual councillors are liable for criminal charges (such as theft) for the misuse or misappropriation of town property, equipment, and materials or labour. A councillor may face civil lawsuits for damages brought by citizens seeking to recover the cost of misappropriations. Because councillors are effectively trustees for citizens, they are personally responsible if found guilty of fraud or misuse of municipal property or funds.

Best Practice
All council activities must be properly authorized by a resolution of council, and any circumstances considered borderline are referred to the town lawyer for a legal opinion.

Legal Reference: Ian F. Rogers, *The Law of Canadian Municipalities* (Toronto: Carswell, 1981), 214.

Influence Peddling or Accepting a Bribe

It is an offence in the *Criminal Code of Canada* for a municipal official to accept any form of loan, reward, advantage or benefit in exchange for abstaining from or voting on a motion before council or a committee, or for performing or failing to perform an official act.

Legal Reference: *Criminal Code*, R.S.C. 1970, c. C-34, ss 119, 120, 121.

Responsibility for Actions on Council

Municipal councillors do not enjoy **parliamentary immunity** as do elected provincial and federal representatives, meaning a councillor can be sued for defamatory statements made about an individual or group during a council meeting.

Best Practice
Councillors should choose words carefully to avoid making defamatory statements.

Legal Reference: An "absolute privilege extends to the deliberations" of Parliament and provincial legislatures, but "subordinate legislative bodies . . . such as a municipal council, may only enjoy a qualified privilege." Jeremy S. Williams, *The Law of Defamation* (Toronto: Butterworth, 1976), 74-5. In general, this qualified privilege refers to statements which are made without malice and which do not imply the commission of a crime, also, see Rogers, 214.7.

A councillor may be held liable for actions related to voting, and failure to perform a statutory responsibility may result in proceedings under Section 419 of the *Municipalities Act, 1999*. A councillor may be responsible for the costs of an action launched by a citizen to force council to meet its statutory responsibilities.

In addition, there are sections of the *Municipalities Act, 1999* which prohibit council from taking certain action. If council passes an illegal (or ultra vires) resolution, councillors who voted in favour or who otherwise voted in contravention of the *Act* may be legally liable for damages.

What the Legislation Says

Section 419 of the *Municipalities Act, 1999* states:

(4) A councillor who votes in favour of an expenditure, the incurring of an expenditure or an agreement contrary to section 248 and another person who contravenes or fails to comply with that subsection is guilty of an offence and, in addition to liability to prosecution under this Act, is personally liable jointly and individually with the other councillors or persons for the payment back to the council of money spent or payment of an expenditure incurred or financial commitment entered into contrary to that subsection.

The Liability of Council

Municipalities are corporations and can sue and be sued for inadequate enforcement of regulations or breach of contract. Municipal liability has two basic categories: **misfeasance** refers to a proven act of wrongdoing while **nonfeasance** refers to a situation in which a council takes no action on a matter. In general, a municipality is not liable for nonfeasance if council is not required to act by statute.

Example 1
Section 174 of the *Municipalities Act, 1999* permits council to establish and operate recreational facilities. This is a permissive or discretionary power as a council is not required to set up a playground or ball field and cannot be found liable for refusing to do so. However, if a council does choose to establish a playground or ball field, it may well be held liable for damages if the grounds and equipment are not kept in good repair and an injury results.

Example 2
Section 414 of the *Municipalities Act, 1999* requires a council to make regulations concerning the construction, location, use, and maintenance of water and sewerage systems. These regulations are not optional but are mandatory and a council may be held liable for damages if it fails to pass and enforce the necessary regulations.

Example 3
In accordance with subsection 414(3) of the *Municipalities Act, 1999*, regulations made by a town controlling and respecting the design, construction, alteration, reconstruction, minimum lot size and occupancy of buildings in their community should be in accordance, at a minimum, with the National Building Code of Canada. As such, it is advised that the town council should:

1. Pass a resolution to adopt the National Building Code in regard to these regulations;
2. Pass a second resolution confirming the responsibility for compliance with the National Building Code in regard to these regulations is with the home owner and/or developer/contractor.

These resolutions have the effect of a) adopting the Code yet b) passing responsibility for compliance along to the home owner or builder/contractor.

Negligence implies a failure to act with such care as would normally be expected in the circumstances. A municipality may be liable for damages due to negligence such as the non-repair of municipal property or the poor performance of an employee. Canadian courts have categorized actions permitted under discretionary authority as being either policy planning (no liability) or operation (liability possible).

Legal Reference: G.H.L. Fridman, Introduction to the Law of Torts (Toronto: 1978), 44. See also Rogers, 1410-7 and Stanley Makuch, Canadian Municipal and Planning Law (Toronto: Carswell, 1983), 140-72.

2.7 Disclosure Statement and Conflict of Interest

Disclosure Statements

Councillors are required to file an annual **disclosure statement** outlining any interests that may place them in a conflict of interest.

What the Legislation Says

Section 210 of the *Municipalities Act, 1999* states:

(1) The councillors, clerk, manager, treasurer and department heads of a municipality, shall complete annually, a disclosure statement in a form which the council may establish setting out the interest of a councillor or an employee that may place him or her in a conflict of interest.

(2) A disclosure statement completed under subsection (1) shall list
- (a) real property or an interest in real property within the municipality that is owned by the councillor or employee;
- (b) corporations in which the councillor or employee holds 10% or more shares;
- (c) partnerships and sole proprietorships in which the councillor or employee holds a 10% or more interest; and
- (d) businesses located within the municipality that are owned by the councillor or employee.

(3) A disclosure statement required under subsection (1) shall be filed with the council by
- (a) a councillor, not more than 60 days after taking office immediately after his or her election or appointment and not later than March 1 in each subsequent year; and
- (b) the clerk, manager, treasurer and department heads, not more than 60 days after commencing employment with the council and not later than March 1 in each subsequent year.

(4) Notwithstanding subsection (3), a change in the information contained in a disclosure statement filed under that subsection shall be reported to the council, in writing, by a councillor, clerk, manager, treasurer or department head not more than 60 days after that change occurs.

(5) A disclosure statement filed under this section shall be retained by the clerk and reviewed at a privileged meeting of the council not more than 30 days after the date required for filing under subsections (3) and (4).

Conflict of Interest

What the Legislation Says

Section 207 of the *Municipalities Act, 1999* states:

(1) A councillor shall not vote on or speak to a matter before the council or a committee of the council where
- (a) the councillor has a monetary interest in the matter distinct from an interest arising from his or her functions as a councillor;
- (b) the councillor has a monetary interest directly or indirectly in the matter;
- (c) a relative of the councillor has a monetary interest in the matter; or
- (d) the councillor is an officer, employee or agent of an incorporated or unincorporated company, or other association of persons, that has a monetary interest in the matter.

Monetary Interest

What the Legislation Says

Section 2 of the *Municipalities Act, 1999* states:
(o) "monetary interest" means an interest or benefit
(i) consisting of money, exacted in money, relating to money or of which money is the object,
(ii) capable of being measured by its financial value, cost, benefit, advantage or disadvantage, or
(iii) affecting or potentially affecting a person's financial position or worth, his or her assets or asset value but does not include remuneration or a benefit to which a councillor is entitled under this Act;

Specific versus Common Interests

To be in a conflict of interest, a councillor must have an individual or specific interest in the matter distinct from the interest arising from council function and distinct from an interest held in common with other citizens.

Example 1
A developer is proposing a subdivision. The land involved is owned by, or adjacent to (which may provide a road access, or will potentially affect the value of undeveloped lands) someone on council. This member of council would be in conflict and cannot vote on any aspect of the subdivision proposal or approval processes.

Example 2
Bids on a tender are received and the low bid and recommended company for the job is owned by a close relative of a councillor (sister, son, father etc.) That councillor should sit out of the vote and/or recommendation process.

Example 3
A donation request is received from a sports team travelling out of province and a team member is a son or daughter of a council member. That council member should sit out of the voting process.

Responsibility to Disclose Conflict

Councillors must exercise caution in voting on matters before council in which they or their relatives may have a monetary interest and have a responsibility to disclose potential conflict.

What the Legislation Says

Section 208 of the *Municipalities Act, 1999* states:
(1) Where a councillor has an interest described in subsection 207(1), the councillor shall
(a) state that he or she has that interest; and
(b) state the nature of the interest at the beginning of discussion on the matter in which he or she has that interest,
and that statement respecting his or her interest shall be recorded in the minutes of the council, or a committee of the council, where that statement was made at a committee meeting.
(2) Where a councillor declaring a conflict of interest under subsection (1) is the presiding officer, he or she shall vacate the chair.
(3) Where a councillor declares a conflict of interest under subsection (1) he or she shall immediately leave the meeting while the matter on which he or she has a conflict of interest is being discussed.

Removing a Councillor for Conflict of Interest

Council has a responsibility to vacate the seat of a councillor in a conflict of interest yet the process of initiating an action is challenging. Recent case law demonstrated councils must exercise **due diligence** and the **rules of natural justice** when pursuing a conflict of interest resolution.

Best Practice

The province's Supreme Court, in ruling on a number of recent appeals by councillors whose seats were declared vacant by their respective councils for conflict of interest, has determined that the rules of natural justice require a council to give a councillor whose seat is to be declared vacant, reasonable notice before the dismissal action is taken. This affords the affected councillor time to respond to the allegation of conflict of interest.

Specifically, the rules of natural justice require a council to:
(1) Provide the councillor with a written document explicitly setting out the details of allegation of conflict of interest;
(2) Arrange for a hearing to be held with the councillor;
(3) Provide the councillor with a reasonable period of notice prior to the hearing; and
(4) Permit the councillor during the hearing:
    (i) to be heard by himself or herself or through legal counsel;
    (ii) to examine and cross - examine witnesses, submit exhibits and make submissions.

Failure to provide an affected councillor with these natural justice rights may very well be sufficient to have a decision to declare his or her seat vacant overturned should the councillor exercise his or her right of appeal. Council is encouraged to obtain independent legal advice on the conflict of interest matter and any applicable procedure.

2.8 Distinction between Policy and Administration

The normal interaction between elected councillors and hired administrators produces an overlap between policy and administration, it is essential to establish a working distinction between the policy role of council and the administrative role of the council staff.

Policy

Policy is the collective, incremental decisions a council makes on a subject over a period of time. To ensure consistency, council's decisions are recorded and an updated record of council policy is maintained. Councils spend most of their time establishing policy, leaving administration to the staff.

Best Practice

Record dates and details of decisions of council that relate to policy – collectively, and incrementally over time, these decisions become the policy of Council.

Administration

Administration is putting council policy into practice. Once policy is established, staff acts without further reference to council, other than providing action and progress reports. Responsibility for policy administration is clearly defined in employment contracts and job descriptions.

Reference Material/Other Reading

Ian F. Rogers, *The Law of Canadian Municipalities* (Toronto: Carswell, 1981)
Criminal Code, R.S.C. 1970, c. C-34, ss 112-114.
Jeremy S. Williams, *The Law of Defamation* (Toronto: Butterworth, 1976)
G.H.L. Fridman, *Introduction to the Law of Torts* (Toronto: Butterwort, 1978)
Stanley Makuch, *Canadian Municipal and Planning Law* (Toronto: Carswell, 1983)

SECTION THREE

ROLES AND RESPONSIBILITIES OF STAFF AND HUMAN RESOURCES

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Roles and Responsibilities of Staff and Human Resources

3.1 Section Overview

This section focuses on human resource management and the role of staff, emphasizing the key positions of clerk, town manager and department heads.

Objectives

After completing this section you will understand the following:

- *The requirement for a clerk and associated roles and responsibilities*
- *The role of town manager*
- *Departments, department heads and their relationship to the town manager*
- *Other staff*
- *Human resource policy including adherence to relevant legislation*

Key Terms	
Clerk	Primary staff resource of most municipalities; responsible for recording the proceeding and decisions of council, the safe-keeping of town records and acting as a returning officer. Towns are required to appoint a clerk.
Department Heads	Senior employees hired by a town to manage various activities, generally department heads report to the town manager.
Town Manager	Senior executive officer of a town, appointed by council, advising council and supervising activities (i.e. department heads) in relation to operations, expenditures and other activities.

3.2 Definition of Municipal Administrator

The *Municipalities Act, 1999* empowers councils to appoint various staff and identifies a specific position, the clerk, which council must appoint; other staff appointments are discretionary. The *Municipal Administrator's Handbook* defines a municipal administrator as:

- City/town clerk
- City/town clerk/manager
- City/town manager
- Chief administrative officer (CAO)
- Administrator

This Municipal Council Handbook focusses on the role of the clerk and town manager, either as separate positions or combined, and outlines other appointments such as department heads.

3.3 Fostering Effective Council/Administrator Relations

Municipal administrators are critical to the effective operations of council. A primary role is the provision of timely information and unbiased input to support council's decision-making process.

Best Practice

- An administrator must be committed to be open and honest with elected officials in an attempt to provide council with the best information necessary. Leadership should be consistent with council's aims and objectives.
- An administrator should always publically support council decisions.
- All information that requires council discussion or decisions should be made available to council in a timely manner.
- An administrator should remain neutral and provide unbiased direction to council.
- An administrator should maintain 'confidentiality' in discussions with councillors or council. Leaks of information can be very damaging between staff and council.

3.4 Clerk

Requirement for Clerk

Council is required to appoint a **clerk**; in many towns the clerk is the only permanent staff resource employed. Depending on the size of the town, a clerk is a full time employee but in some small towns the clerk position is part time.

What the Legislation Says

Section 59 of the *Municipalities Act, 1999* states:
(1) A council shall establish the position of clerk and shall, by a vote of 2/3 of the councillors in office, appoint a person to the position of clerk.

Role of the Clerk/Administrator

For many towns the clerk is the chief administrative officer and responsible for administrative, financial and operational activities of council. Some towns combine the clerk and town manager into one position. Legislation defines the clerk's role as responsible for recording council proceedings and maintaining and safeguarding council records. An additional role is to act as returning officer during municipal elections or by-elections.

What the Legislation Says

Section 61 of the *Municipalities Act, 1999* states:
(1) A clerk is a secretary to council, and is responsible to it for recording the proceedings and decisions of council and for the safekeeping of all documents of the council.

A clerk, or other designated person, is responsible for council records; councillors cannot access those records without the clerk's permission; records are not removed from the clerk's office under any circumstance. The clerk keeps the town's corporate seal and affixes it as required. The clerk may also administer oaths and take affidavits for town purposes however, unlike the mayor a clerk is not automatically a Commissioner of Oaths by virtue of the position.

Clerk as Secretary to Council

Clerks are required to attend council meetings and at the discretion of council may attend committee meetings. If the clerk cannot attend a council meeting or fulfill other responsibilities, council is required to appoint a person to act in the place of the clerk, demonstrating the need to record and document the decisions of council.

What the Legislation Says

Section 59 of the *Municipalities Act, 1999* states:
(3) Where the office of clerk is vacant, or the clerk is unable to carry out his or her duties, the council shall appoint a person to act as clerk.

Role of the Clerk/Administrator

The clerk can speak at council and committee meetings but has no vote.

A clerk reports directly to council. In municipalities with a town manager, the town manager has no jurisdiction over the clerk's statutory duties to council and has no right to remove any files or official documents from the clerk's office unless council has appointed the town manager as a designated employee under the *Municipalities Act, 1999*.

What the Legislation Says

Section 61 of the *Municipalities Act, 1999* states:
(2) Notwithstanding subsection (1), a council may delegate responsibility for the safekeeping of documents, which the council may prescribe, to another employee of the council.

Clerk as a Department Head

A clerk may have other duties and responsibilities defined by council and in relation to these may be considered a department head. In the performance of these duties, the clerk reports to the town manager if one is in place, if not, the clerk reports directly to council.

Clerk as Returning Officer

The clerk is designated under Section 13 of the *Municipal Elections Act* as the returning officer for municipal elections. In all duties under the *Municipal Elections Act*, the clerk is responsible to the Department of Municipal Affairs and Environment. As returning officer, the clerk is responsible for the preparation of voters' lists, receiving nomination forms, publishing the list of candidates, holding the election, counting the ballots, and announcing the results.

What the Legislation Says

Section 13 of the *Municipalities Act, 1999* states:
(1) The clerk shall be the returning officer for an election held under this Act and, where there is no clerk or the clerk is unable to act, the council shall appoint a returning officer.

3.5 Town Manager

Section 53 of the *Municipalities Act, 1999* permits a council, by a 2/3 vote of the councillors in office, to appoint a **town manager**. The town manager, often known as the Chief Administrative Officer (CAO), is the chief executive and administrative officer of council. The appointment of a town manager is normally undertaken in order to relieve council of the need for administrative oversight, leaving council more time to concentrate on its policy making role.

What the Legislation Says

Section 53 of the *Municipalities Act, 1999* states:
(1) A town council may establish the position of town manager and may, by a vote of 2/3 of the councillors in office, appoint a person to the position of town manager.

Town Manager as Clerk

Similar to the situation outlined above with respect to the clerk being given the responsibilities of town manager, the town manager may also be given the responsibilities of clerk by a council. This highlights the considerable overlap in many municipalities of the clerk and town manager positions and roles and the various combinations of positions identified in the *Municipal Administrator's Handbook* and associated definition.

Town Manager's Role

The town manager is responsible for the planning, execution, conduct, and administration of the town in accordance with council policies. The town manager makes recommendations on the operation and cost of all municipal activities, supervises contracts, advises on construction, maintenance, and development of municipal property, and ensures council decisions, regulations, and orders are carried out. Town managers may, under council's direction, prepare the town budget and advise councils on financial matters including the supervision of revenue collection and the control of town expenditures.

Generally, a town manager is responsible for:

- The coordination, direction, and supervision of municipal employees and departments
- Hiring, discipline, and termination of council employees with the exception of the clerk or a department head - these fall under the control of council
- Conducting negotiations and supervising collective agreement with council employee unions
- Exercising the duties of a department head if a head was not appointed by council
- Attending council meetings and, at council's discretion, committee meetings
- Advising council on its operations, expenditures, and activities

Council Authority over Town Manager

Despite the town manager's responsibility to provide advice to council, council ultimately has the final authority and the town manager must obey the direction of council regardless of disagreement or recommendations against the decision. This would not apply if council directs the Town Manager to perform an act that is illegal or unsafe.

What the Legislation Says

Section 55 of the *Municipalities Act, 1999* states:
(1) A manager shall not disobey, disregard or overrule a decision of the council.
(2) A manager may advise or make a recommendation to the council which shall receive, consider and make a record of the advice or recommendation in its minutes but is not bound to follow that advice or recommendation, nor is the advice or recommendation of the manager required before an action of the council.

Town Manager in relation to Council and other Department Heads

As head of administration, a town manager can use council employees to carry out the manager duties. This right includes **department heads** who normally report to council through the town manager. Councillors do not deal directly with a department head in such a way as to bypass the town manager.

Disagreement between Town Manager and Department Heads

The *Municipalities Act, 1999* requires the town manager to report to the next council meeting the disagreement of any department head with plans, proposals, or appointments made by the town manager.

What the Legislation Says

Section 57 of the *Municipalities Act, 1999* states:
(2) A manager shall, where requested in writing by a department head, giving reasons for the request, report to the next meeting of the council that the department head is not in agreement with a plan, proposal or appointment of the manager.

Town Manager Spending Authority

Each council is required to limit the amount a town manager can spend without council authorization, providing the funds are available. In an emergency, town managers may spend more than the limit without authorization but the expenditure must be reported at the next meeting.

What the Legislation Says

Section 58 of the *Municipalities Act, 1999* states:
(1) A manager may make or authorize the making of expenditures for the purchase of equipment, supplies, work or other thing required for the carrying on of the business of the council, and he or she may enter into contracts for the expenditures on behalf of the council
(a) where the expenditure does not exceed in a single case a sum which the council shall by resolution set as a maximum amount; and
(b) where the expenditure exceeds in a single case the amount referred to in paragraph (a) with the prior approval of the council,
where the proposed expenditure is not in excess of the amount provided in the budget for the purchase of the equipment, supplies, work or thing.
(2) Notwithstanding subsection (1), where, in the opinion of the manager, the immediate expenditure of an amount exceeding the amount established by the council under paragraph (1)(a) is necessary to meet an emergency situation, the manager may make that expenditure without the prior approval of the council and shall report on the expenditure to the council at its next meeting.

Conversely, council may not make expenditure in excess of set amounts without seeking the recommendation of the town manager on that expenditure.

What the Legislation Says

Section 58 of the *Municipalities Act, 1999* states:
(3) Where an expenditure is proposed by a council that exceeds the expenditure amount established under paragraph (1)(a), that council shall not make the expenditure until it has requested the recommendations of the manager with respect to that expenditure.

3.6 Other Departments and Department Heads

The need to establish departments and appoint department heads and other staff depends on the size and complexity of council activities.

Establishing Departments and Appointing Department Heads

Council may establish departments for the purposes of carrying out council business and appoint department heads to manage each of the departments; this must be done in consultation with the town manager.

What the Legislation Says

Section 63 of the *Municipalities Act, 1999* states:
(1) A council may
(a) establish departments;
(b) appoint for those departments the department heads that are necessary for the effective operation of the council; and
(c) set out the roles and responsibilities of those department heads.
(2) Where there is a manager, the council shall seek his or her recommendation before establishing a department or appointing a department head.
(3) The council may appoint one person to head 2 or more departments established under paragraph (1)(a).

In relation to the reporting relationships of department heads, where a town manager is in place department heads report to the town manager; without a town manager department heads report to council.

What the Legislation Says

Section 63 of the *Municipalities Act, 1999* states:
(4) The department heads are responsible to the manager, or, to the council, where there is no manager.

Departments and department heads relate to a number of activities including:

Summary of Potential Department Heads

Department Head	Description
Town Engineer	The *town engineer* is responsible for the design, construction, operation, and maintenance of all town works and equipment. Many councils find it economical to hire a consulting engineer rather than appointing one.
Superintendent of Works	Council may appoint a *superintendent of works* to be responsible for the operation and maintenance of town works and equipment.
Town Treasurer	A *town treasurer* is responsible for the financial management of the municipality. If no treasurer is appointed by council, the town clerk assumes treasurer duties and responsibilities. For these functions, the town clerk reports to the manager or if there is no manager in place, council.
Town Planner	Council may appoint a *town planner* to recommend long term objectives and strategies to guide development and to prepare plans to accomplish this. Many councils find it economical to hire a consulting planner rather than appointing one.
Recreation Director	A *recreation director* is responsible for planning and directing a municipal recreation program and for the operation and maintenance of municipal recreation facilities. While the recreation director normally consults with various community groups and committees interested in recreation, the director is responsible to the town manage, if there is no town manager, council.
Fire Chief	The *fire chief* is responsible for the organization, training, and operation of the town's volunteer fire department and for fire prevention and fire protection in the town. The fire chief reports to the Town Manager or council, which authorizes fire department spending. Additional responsibilities of the fire chief are outlined in the *Fire Protection Services Act*.

3.7 Other Staff

In addition to department heads, council may appoint other staff for the administration of the town. In such instances, council shall follow the practice of preparing job descriptions and outlining key roles and responsibilities and seeking the town manager's input, where a town manager is in place, before establishing positions.

What the Legislation Says

Section 65 of the *Municipalities Act, 1999* states:
(1) A council may establish employee positions for the administration of the town or region.
(2) A council shall establish written job specifications for each position established by it, setting out the duties for each position and the qualifications of persons to fill those positions.
(3) Where there is a manager, the council shall seek his or her recommendation before they exercise their powers under subsections (1) and (2).

3.8 Human Resource Policy

Obligations under the Labour Standards Act

Municipalities meet the description of an employer under the *Labour Standards Act* and as such, are required to adhere to the relevant sections of the *Act* respecting employees and terms and conditions of employment.

What the Legislation Says

Section 2 of the *Labour Standards Act* states:
(e) "employer" means a person who is a party to a contract of service with an employee;

Requirement for Job Descriptions

As noted in Section 3.6, Council is obliged to prepare a job description for each position when appointing department heads and other staff. This facilitates the recruitment process and ensures staff duties and responsibilities are clear, work conditions and expectations are identified, and enables performance management and measurement. Many councils establish human resource policies within the Rules of Procedure that govern staff recruitment, hiring, management and evaluation.

Best Practice
Councils should have a human resource policy manual listing authorized positions and giving a clear description of duties and responsibilities.

Staff Supervision and Management

Council is required to consult with the town manager, where one is in place, on the creation of departments and other employee positions and the hiring of department heads and other staff. The creation of new department heads and other staff positions often imply a change in town manager responsibilities. Where no town manager is in place, the terms of reference for council committees and lead councillors responsible for various staff may need to be adjusted. If a town manager is in place, these new staff additions and changes should be reflected in a revised job description for the town manager.

Competitive Wage and Benefits

The *Municipalities Act, 1999* does not dictate staff compensation or benefits. In today's competitive labour market, councils desiring high quality staff must be prepared to pay appropriate salaries and benefits.

The *Municipalities Act, 1999* enables council to make provision for various benefits for staff over and above those mandated within the *Labour Standards Act* including pensions, group insurance, and training and professional development.

What the Legislation Says

Section 72 of the *Municipalities Act, 1999* states:
1) A council may provide a pension scheme for councillors, full-time employees, regular part-time employees, or a class of those employees, who have worked for a stated period and discontinued their employment or, in the case of a councillor, his or her tenure as a councillor, or have suffered permanent disability before reaching retirement age.

Section 73 of the *Municipalities Act, 1999* states:
(1) A council may arrange to provide a group insurance scheme for its councillors, employees or a class of employees, and for volunteer members of its fire department and for that purpose may enter into arrangements which the council may determine with insurance or other companies or with the Crown.

Section 74 of the *Municipalities Act, 1999* states:
Where councillor and staff training is carried out by a council or in co-operation with other councils or bodies engaged in councillor or staff training programs, the council shall arrange to support its councillors and employees financially and otherwise in taking those training programs.

Suspension and Dismissal

Council may suspend a town manager, clerk or department head with cause and determine whether the employee is to be paid during all or a portion of the suspension.

What the Legislation Says

Section 67 of the *Municipalities Act, 1999* states:
(1) Where a council is of the opinion that the manager, clerk or a departmental head has misconducted himself or herself in the performance of his or her duties or in the exercise of his or her powers under this Act, the council may, by a vote of 2/3 of the councillors in office, suspend the manager, clerk or department head from his or her office for a period which the council may determine.
(2) A council may determine, by a vote of 2/3 of the councillors in office, if a suspended manager, clerk or department head is to receive his or her salary during the period of suspension and may include periods without pay and with pay during that suspension.

Council may also dismiss a town manager, clerk or a department head.

What the Legislation Says

Section 67 of the *Municipalities Act, 1999* states:
(1) A manager, clerk or department head may be dismissed by a vote of 2/3 of the councillors in office, where the vote to dismiss is confirmed by a similar vote at a meeting of the councillors held not earlier than 30 days after the meeting at which the first vote to dismiss was carried.

Suspension and dismissal procedures should be reflected within an overall human resource policy for council and be guided by the spirit of the rules of natural justice considered in Section 2.7 above. Council or the town manager may suspend or dismiss an employee, generally in accordance with council policy on suspension and dismissal and consistent with the terms and conditions of the collective agreement if such an agreement is in place (see *Collective Bargaining and Obligations under the Labour Relations Act* below). Decisions around suspension and dismissal should not be taken lightly and it is always prudent to seek legal advice prior to any action.

What the Legislation Says

Section 70 of the *Municipalities Act, 1999* states:
(1) Where there is a manager, he or she may, after consultation with the head of the department concerned, employ, suspend or dismiss an employee of the council, other than the clerk or a department head.
(2) The authority that may be exercised by the manager under subsection (1) is subject to the terms of a collective agreement or other employment contract to which the council is a party.
(3) Where there is no collective agreement or other contract regulating the procedures to be followed under subsection (1), a council shall, upon the written recommendation of the manager, where there is a manager, establish written procedures governing the exercise of the powers set out in subsection (1).
(4) A council may employ, suspend or dismiss an employee of the council, subject to subsections (2) and (3), after consulting with the manager, where there is a manager.

Collective Bargaining and Obligations under the Labour Relations Act

Many councils have unionized employees and it is important to negotiate in good faith and ensure the collective agreement is followed. Similar to *the Labour Standards Act* above, municipalities meet the description of an employer under the *Labour Relations Act* and are required to adhere to the relevant sections of the *Act*.

What the Legislation Says

Section 2 of the *Labour Relations Act* states:
(n) "employer" means a person who employs 1 or more employees, and includes a council of a town, community, region or local service district constituted or continued under the Municipalities Act, or a city, region or municipality established under an Act;

Obligations under the Occupational Health and Safety Act

Municipalities also meet the description of an employer under the *Occupational Health and Safety Act* and are required to adhere to the relevant sections of the *Act* in the provision of safe work places.

What the Legislation Says

Section 2 of the *Occupational Health and Safety Act* states:
(f) "employer" means a person who employs 1 or more workers;

Emerging requirements such as obligations to external contractors and new regulations governing fall protection and confined spaces have implications for council's legal responsibilities for staff and those working under contract.

Best Practice
Councils should develop a safety policy. The Municipal Safety Council is a new sector organization specifically established by municipalities, labour and other stakeholders to promote awareness of good occupation health and safety practices among municipalities. Information on the Council can be obtained at www.mscnl.ca or by contacting 709 753 9599.

Reference Material/Other Reading

Labour Relations Act, http://assembly.nl.ca/Legislation/sr/statutes/l01.htm
Labour Standards Act, http://assembly.nl.ca/Legislation/sr/statutes/l02.htm
Occupational Health and Safety Act, http://assembly.nl.ca/Legislation/sr/statutes/o03.htm
Professional Municipal Administrators, *Municipal Administrators Handbook*

Paradise

SECTION FOUR

COUNCIL AND THE CONDUCT OF BUSINESS

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Council and the Conduct of Business

4.1 Section Overview

This section focuses on the decision-making process of council with a particular focus on council meetings and committees.

Objectives

After completing this section you will understand the following:

- *The requirement for rules of procedure*
- *Types of meetings*
- *Calling a council meeting including notice of meeting and preparing the agenda and other documents*
- *The importance of minutes*
- *Conducting a meeting including motions and debate*
- *Voting*
- *Council committees and appointments to external organizations*

Key Terms	
Minutes	A clear and accurate record of proceedings of council meetings and decisions of council.
Motion	A formal proposal that is discussed and voted on at a meeting.
Moved (or to Move)	To propose a motion for debate at council. The person proposing the motion is generally referred to as a **mover.**
Privileged Meeting	A meeting of council where only councillors and staff are in attendance, generally used to discuss matters of a confidential nature. Minutes of privileged meetings must be kept and resolutions adopted in a privileged meeting must be reintroduced and adopted at a public meeting.
Resolution	A formal statement of an opinion agreed on by a committee or a council, especially by means of a vote.
Rules of Procedure	Rules that govern the conduct of council meetings and which may be expanded to include other aspects of council operations and activities (i.e. policies and procedures). All councils must adopt Rules of Procedure for their meetings.
Second (or to Second)	To second a motion for debate at council. The person seconding the motion is generally referred to as a **seconder.** Generally most motions require a mover and seconder.
Standing Committees	A *standing committee* refers to the fact that the committee *stands* or continues to exist for the life of the parent body, generally that of the council. They often have administrative responsibilities and include finance, administration, public works, planning and recreation.
Special Committees	A *special (ad hoc) committee* is established for a special purpose and when that purpose is completed, the committee is disbanded. They are useful for providing council with a comprehensive evaluation of a particular situation and the preparation of policy alternatives.

4.2 Rules of Procedure

Councils must adopt **Rules of Procedure** for meetings, ensuring the efficient flow of business and accurately recording what takes place.

What the Legislation Says

Section 24 of the *Municipalities Act, 1999* states:
(3) A town council shall adopt rules of procedure for its meetings.

At minimum, the Rules of Procedure should include:
- A time and place for regular meetings
- Procedure for giving adequate notice of meetings
- Regular agenda format
- Procedure at meetings including chairperson's powers, precedence of motions, points of order and privilege and adjournment

It is important to keep the Rules of Procedure simple so they are easily understood. Formal procedures, such as *Robert's Rules of Order*, may be advisable as a resource but are not required. Once adopted, the Rules of Procedure must be followed. Amendments can be made and the rules can be temporarily suspended during a meeting provided the proper procedures are followed.

4.3 Types of Meetings

Council meetings are one of three types:
- Public meetings
- Privileged meetings
- Other/Special meetings

Public Meetings

A public meeting is the main forum for the discussion of council business. Public council meetings serve a democratic function, providing a venue for open discussion and representation of citizen views, and a legislative function, passing resolutions and regulations.

Privileged Meetings

A **privileged meeting** requires council to pass a motion to declare the meeting, or portion of it, as privileged.

What the Legislation Says

Section 213 of the *Municipalities Act, 1999* states:
(1) A meeting of a council shall be open to the public unless it is held as a privileged meeting or declared by vote of the councillors present at the meeting to be a privileged meeting.

The public and media are not permitted to attend unless specifically requested by council. The clerk should normally attend for the purposes of recording the decision of council unless the purpose of the meeting is to discuss matters relating to the clerk's position. In such instances, another staff person may be designated as acting clerk for the purposes of that meeting. Other staff may be requested to attend the meeting at the discretion of council depending on the matter under discussion.

Meetings can be declared or held as privileged for a variety of reasons, including:
- Confidential and personal information
- Human resource matters
- A sensitive matter that could impair council's ability to carry out its activities, i.e. negotiations
- Information that could cause financial loss or gain to a person or business
- A proposed or pending acquisition, disposition or expropriation of property
- Commercially sensitive information
- Matters relating to litigation or legal advice

Privileged meetings are exceptions and should not used to exclude the public from deliberations. The process of calling a privileged meeting, as a separate meeting or during a public meeting, are outlined in the Rules of Procedure. Any resolution from a privileged meeting must be re-introduced, moved, seconded, and passed at a public meeting in order to be valid.

What the Legislation Says

Section 213 of the *Municipalities Act, 1999* states:
(3) A decision of the councillors made at a privileged meeting shall not be valid until that decision has been ratified by a vote of the councillors at a public meeting.

FAQ – Do we have to keep minutes at a privileged meeting?

The minutes of privileged meetings are adopted by council at a public meeting. Once the minutes of a privileged meeting are adopted they are made available to the public on request. These minutes should be brief to avoid including detailed discussions or views which would counteract the purpose of holding the privileged meeting in the first place.

Other/Special Meetings

The *Municipalities Act, 1999* does not refer specifically to other types of meetings but from time to time council may meet for a specific purpose or matter which cannot wait until the next scheduled meeting. The procedure for calling a special meeting is in the Rules of Procedure, the notice of meeting period may differ from that of a regular meeting.

4.4 Calling a Council Meeting

Requirement to Meet

The *Municipalities Act, 1999* requires a council to hold a public meeting at least once a month. Additional public or privileged meetings may be held at any time by giving notice in accordance with the Rules of Procedure.

What the Legislation Says

Section 24 of the *Municipalities Act, 1999* states:
(1) "... there shall be held, at least once a month, a meeting of the town council to which the public shall be admitted."

Role of the Clerk/Administrator

The clerk is responsible for calling all council meetings at the request of either the mayor, the deputy mayor in the mayor's absence, or any two members of council.

Notice of Meetings

The *Municipalities Act, 1999* does not provide guidance specifying the notice period for public council meetings. Council identifies the notice period in the Rules of Procedure as it is important each councillor receives proper notice to remain in compliance with their obligation to attend meetings (see Section 2.3 above). In an emergency, for example, it might be agreed adequate notice may be shorter and given by telephone.

Best Practice

Councils establish a regular meeting schedule, for example the second Tuesday of each month. This enables councillors to know in advance the regular council meeting schedule, facilitating a quorum, and allowing staff to prepare materials. It also allows citizens to know the regular schedule of public meetings so they can attend and participate as necessary.

Preparing and Distributing the Agenda and Meeting Materials

As secretary to council, the clerk is normally responsible for preparing the agenda in coordination with the mayor and other councillors in advance of the meeting. A standard agenda template is included in the Rules of Procedure. Councillors need to review the agenda and meeting materials in advance enabling them to satisfy their primary responsibility – being informed.

Council meeting materials generally include the agenda, financial statements, correspondence, committee and other reports, and development applications.

Sample Agenda

Town Council of (Insert Town)
Meeting of (Insert date)
AGENDA

1. Call to Order
2. Adoption of Agenda
3. Adoption of minutes:
   a) Regular meeting of (Insert date)
   b) Privileged meeting of (Insert date)
4. Business arising from minutes
5. Delegations:
   a) Local service club re: donation
   b) Taxpayers committee re: water supply
6. Committee reports:
   a) Planning and works committee
   b) Administration committee
7. Correspondence:
   a) Pending/Action summary
   b) Other matters
8. Finances:
   a) Budget statement
   b) Accounts for payment
9. Regulations:
   a) Garbage Pickup regulations
   b) Fence heights
10. General business
11. Notices of motion
12. Adjournment

Best Practice
The Rules of Procedure should set a cut-off time for inclusion of new items on the agenda, generally 4-5 days in advance of the meeting to enable meeting material preparation and distribution by staff.

Best Practice
Many councils post the agenda on-line to enable public awareness and engagement. Members of the public can check the town's website in advance of the regularly scheduled meeting and review the agenda and items for consideration at any given meeting (see Section 7 – Council Communications and Citizen and Stakeholder Engagement).

Best Practice
Many councils have adopted technology to facilitate council business including electronic versions of files and materials for review by councillors and have provided councillors with current technology, applications and training to facilitate technology adoption.

Agenda Items and Comments

Agenda Item	Rationale
Call to Order	Done by the mayor, or the deputy mayor in mayor's absence, or a councillor if the mayor and deputy are absent - this councillor is appointed chair by the councillors present.
Adoption of Agenda	A formal adoption of the agenda at the start of the meeting provides an opportunity for possible additions of an urgent nature and allows council a chance to quickly review the order of business for the meeting.
Adoption of Minutes	Formal adoption of the minutes establishes them as an accurate record of proceedings and decisions taken. Minutes, including those from privileged meetings, are adopted at the next regular public meeting. Minutes are not actually read at meetings but are circulated beforehand, saving time. Additional considerations on the minutes are described in Section 4.5.
Business Arising from Minutes	Council might ask for an update from staff or the mayor on the progress or outcome of items discussed at the previous meeting. Any items of business held over from a previous meeting is discussed under general business.
Delegations	The Rules of Procedure have specific guidelines regarding the appearance of delegations before council, but in general, a delegation wishing to address council is required to notify the clerk in advance, appoint a spokesperson, appear at a specified time, and make their presentation within an allocated period of time. Council members may wish to question the delegation's spokesperson, but it is wise not to engage in argument or debate.
Committee Reports	The Rules of Procedure have specific guidelines regarding the establishment of committees and the appointment of council members and staff to external committees. The Rules of Procedure outlines the reporting requirements of committees to council.
Correspondence	Most correspondence addressed to a council is routine and need not actually be read at a council meeting. A number of councils have adopted some form of a distributed reading file or summary report. Additional considerations on correspondence are reflected in *Managing Incoming Correspondence* below.
Finances	Council should always be aware of the financial position through monthly budget reports including a financial statement and a summary of accounts payable provided by staff. Approval of accounts payable is carried out at this point, assuming authority was not delegated to staff or sub-committees. Additional considerations on finances are reflected in *Presentation of Financial Statements* below.
Regulations	New or revised regulations are listed on the agenda so council is able to prepare for their discussion.
General Business	General business provides an opportunity to discuss new or unfinished business and when decisions might be made about matters raised by delegations. General business items are on the agenda so councillors know how much work is scheduled and can prepare accordingly.
Notices of Motion	Many councils require notice of motion be given prior to consideration of regulations or amendments and for the re-consideration of a previously adopted motion or resolution in their Rules of Procedure. Although not required by the *Municipalities Act, 1999* such notice of motion allows councillors time to consider the regulation or amendment. It is strongly recommended that councils adopt this procedure.
Adjournment	There is no requirement meetings must adjourn at a set time, although some councils include a time of adjournment or a maximum meeting duration in the Rules of Procedure.

Managing Incoming Correspondence

A significant volume of incoming correspondence does not require council action. Many councils' Rules of Procedure detail how to manage incoming correspondence; to categorize it into those requiring action, those requiring normal administration by staff, and those for council information purposes.

Correspondence is any material delivered by hand, mail or electronic means. Email correspondence, with attachments, is increasingly used and is given the same weight as regular mail.

Many councils establish a reading file into which the clerk places a copy of council correspondence. A correspondence and action report is even more useful. With this, the staff can act immediately on much correspondence as it is received and provide a report for council on what was done. Other correspondence is referred to council with a recommendation for action. In all cases, the correspondence itself is not to be read at council meeting unless specifically requested by a councillor.

Correspondence Summary

Town of (Insert Council) Correspondence Summary– (Insert date) – (Insert date)			
FROM	**DATE**	**REGARDING**	**ACTION**
Mrs. H. N.	Nov 1	Backed-up sewer	Repaired
Mr. J. R.	Nov 3	Objection to proposed gas bar on Main Road	Refer to Planning & Zoning Committee
Mrs. J. T.	Nov 5	Query on tax rate	Information sent
Mr. S. T.	Nov 7	Request for fill	Advised none available at present
Department of Municipal Affairs and Environment	Nov 9	Reminder budget due December 31	Refer to Finance Committee
Residents of Rocky Road	Nov 11	Request for water and sewer	Discuss at next council meeting
XYZ Consulting	Nov 13	Proposal for study of computer needs	Discuss at next council meeting
Mrs. B. R.	Nov 15	Request for lower speed limit on Main Road to 40 KPH	Refer to Traffic Committee
Smith & Jones	Nov 17	Application for subdivision development	Refer to Planning & Works Committee

Presentation of Financial Statements

Council is responsible for managing the financial affairs of the town, ensuring council understands the town's financial position, and approving expenditure. The requirements for ongoing financial statements and accountability are considered in Section 6 - Council Budgeting and Financial Administration.

At minimum, the current financial statements demonstrate the financial position of the town and a summary of accounts payable. The financial statement allows council to manage cash flow and ensure sufficient reserves to meet current and upcoming expenses.

Cost Flow Analysis Report

Balance at May 31,2012		$425,112
Revenue (June 1 – June 30)		
Business/Utility Taxes	$48,147	
Property Taxes	46,121	
Permits/app fees, etc.	2,400	
	$96,668	521,780
Expenditures (June 1 – June 30)		
Payroll	$19,870	
Waste Management	18,792	
Legal Fees	2,000	
Newfoundland Power	7,880	
Receiver General	11,000	
Accounting Fees	1,413	
Audit Fees	4,040	
Road Maintenance	15,950	
Recreation Centre	14,650	
Assessment Agency	6,132	
Swimming Pool	12,123	
Loan Payments	7,417	
Insurance	2,112	
Bank Charges	1,468	
Ads (Appeals)	730	
Regular monthly expenses	3,600	
	$129,177	
Bank Balance at June 30,2012		$392,603

To approve expenditures many councils use a summary of accounts payable.

Accounts Payable

Town of (Insert Council) Accounts Payable Report (Insert date) – (Insert date)			
Cheque #	**Payable to**	**Reason**	**Amount**
767	A&H Construction	Gravel	$567.89
768	B&M Paving Ltd.	Asphalt patching	917.35
769	Diamond Cabs	Freight*(water pump valve)*	56.00
770	P&R Auto Glass	Glass vestibule	4,995.00
771	Evergreen Landscaping	Trees and Shrubs	3,312.50
772	Newfoundland Power	Relocation of hydro pole	653.00
773	Nfld. Tractor & Equip.	Drive chain for grader	934.24
774	N&L Supply Co. Ltd.	Compressor for fire dept.	1,991.34
775	King's Garage	Truck rental	688.37
776	Irving Oil Ltd.	Gas for ambulance	471.20
777	Modern Printers	Office stationery	134.76
778	Waterworks Supplies	Pressure reducing chamber	74.86
		Total	$14,796.51

4.5 Minutes of Council

An Accurate Record

Minutes are an accurate record of what was decided at council meetings and are necessary for regulatory and legal reasons. Clear and unambiguous minutes allow councillors to see what was done in the past and to avoid passing conflicting regulations. Minutes should never be a verbatim reproduction of the discussion at council, rather a record of decisions of council, references to relevant documentation, voting and attendance.

Role of the Clerk/Administrator

A clerk is the secretary to the council and is responsible to it for recording the proceedings and decisions of the council and for the safekeeping of all documents of the council.

What the Legislation Says

Section 212 of the *Municipalities Act, 1999* states:
(4) The minutes of a council meeting shall indicate the names of the councillors who vote for and against and who abstain from voting on a motion or resolution.

FAQ – What should be recorded in the minutes?

Minutes do not record all the discussion rather just a summary of the debate. Each resolution or motion is numbered by year and by motion i.e. 2011-001 to make it easier to locate them.

The minutes of a council meeting include the following:
- date and place of the meeting
- time at which the meeting was called to order
- record of attendance, including the time when individual councillors arrived or left
- exact wording of all motions and resolutions put before council
- names of the mover and seconder of each motion or resolution
- the names of councillors in favour, against, or abstaining on a motion or resolution
- a brief description of reports, documents, and delegation presentations
- any declaration of a conflict of interest by a member of council and a record of that councillor leaving the meeting while the matter is under discussion
- time of adjournment.

Formal Adoption of Minutes

Adopted minutes are signed by the clerk and the mayor (or meeting chairperson) and must not be changed after adoption. Once adopted, the minutes are available for public inspection.

What the Legislation Says

Section 215 of the *Municipalities Act, 1999* states:
(1) The following documents shall be made available by the council for public inspection during the normal business hours of the council:
(a) adopted minutes of the council;

Additional requirements for inspection of documents are considered in greater detail in Section 7 - Council Communications and Citizen and Stakeholder Engagement.

Best Practice

Once the minutes are adopted by council, the Clerk has the mayor or chairperson sign them immediately after the meeting. This is often not possible if the motion to adopt the minutes included a change to the minutes. The Clerk should makes any changes specified in the motion and get the mayor or chairperson to sign as soon as possible.

4.6 Motions and Debate

The Role of the Presiding Officer

The mayor, deputy mayor or councillor chairing the meeting acts as presiding officer and ensures council meetings proceed in an orderly manner and the Rules of Procedure are not used to obstruct, delay or thwart council business. The presiding officer rules whether motions and amendments are in order. Council can appeal a decision of the presiding officer using the method of appeal set out in the Rules of Procedure.

The Distinction between Motions and Resolutions

The *Municipalities Act, 1999* makes no distinction between the terms **motion** and **resolution**. Either term is acceptable in most councils but the *Municipalities Act, 1999* does identify specific instances where a resolution of council is required. Oxford dictionary defines these terms as:

Motion: A formal proposal that is discussed and voted on at a meeting.

Resolution: A formal statement of an opinion agreed on by a committee or a council, especially by means of a vote.

The distinction between the two relates to the stage of the process with the motion equivalent to a proposal for action and the resolution to the formal expression of the will of the group in relation to the motion. In the context of a council meeting, a motion becomes a resolution through the process of debate, voting and majority consent – the expression of the will of council. This Handbook uses the term motion when speaking of matters moved and seconded before council but not yet voted on and resolution for those matters where a motion has been presented and approved by council.

All decisions should be reflected as a resolution of council and generally follow the process of motion, seconding, debate and voting outlined below.

General Requirement for Mover and Seconder

A motion, other than some procedural ones, is moved and seconded before being discussed. If another motion is on the floor, then only procedural motions can be moved as discussed below. If a seconder is not found, the motion cannot be discussed and the meeting moves on to other items of business.

Amendments to Motions

During discussion of a motion, an amendment may be moved at any time, subject to the normal rules of debate (such as not interrupting another speaker). An amendment may only modify the main motion and must not substantively change its intent. An amendment must be seconded, but if no seconder can be found, then the amendment cannot be discussed and debate returns to the main motion. If properly moved and seconded, debate is limited to the amendment. An amendment can be moved to an amendment by the same process, but to avoid confusion, a wise chair prevents more than two amendments at the same time.
Voting is in reverse sequence to the order in which the motions and amendments were made. The most recent amendment is voted on first, then the one before that, and so on until the main motion (as amended if an amendment was passed) is reached.

The Rules of Procedure contains provisions about which motions have precedence and when particular motions can be moved. The following procedural motions are normally in order during debate, subject to the general rule of not interrupting a speaker.

Procedural Motions

MOTION	EXPLANATION	DEBATABLE	SECONDER
Adjourn	A motion to adjourn may be made at any time, even if the Rules of Procedure contain a set time for adjournment. It takes precedence over any other motion and must be voted on before debate can continue on another matter.	No	Yes
Question of Privilege	A councillor may raise a question of privilege even when another councillor has the floor. The question of privilege may relate to council or to an individual councillor. The presiding officer rules on whether the point of privilege is admissible and on the remedy. Normally, no vote is taken on a point of privilege.	No	No
Point of Information	A point of information can be raised at any time. Normally this motion is used to seek information from the speaker or the presiding officer, although it is also used to interrupt a speaker in order to get or correct information. No vote is required.	No	No
Point of Order	A point of order is used to bring the presiding officer's attention to a matter which is apparently overlooked. A point of order can be raised at any time and is not voted on.	No	No
Lay on the Table	This motion is used to postpone discussion on an item in order that another pressing piece of business may be considered. A councillor might move the item under discussion be *laid on the table* until after the pressing business is considered, then discussion on the original business resumes through a motion to *take up from the table*. This motion is not be used as a delaying tactic and is ruled out of order by the presiding officer if this appears to be the intent. The mover states the reason to lay on the table in the motion.	No	Yes
Previous Question	The purpose of this motion is to end the debate and to force an immediate vote. If this motion passes, all debate on the motion ceases and it is immediately put to a vote. If the original motion has one or more amendments pending, then the motion of previous question should state whether it applies only to the most recently moved amendment or to the main question and all amendments. If the latter is intended, then each amendment is voted on in turn (starting with the most recent) and then the main question (as amended if any of the amendments have passed). If the motion of previous question fails, then discussion resumes on the original motion or amendment.	Yes	Yes
Postpone to a Certain Time	This motion is used to postpone further discussion of an issue until a certain time. The Clerk keeps track of postponements and places them on the agenda at an appropriate time.	Yes	Yes
Postpone Indefinitely	The intent of this motion is to indirectly defeat a question. It is not used often, but is useful to extricate a council from a situation in which to take a direct vote might create a bad split or create an unwelcome precedent. If the motion to postpone indefinitely carries, then the original motion is killed and does not come before council until reintroduced at a later date. The motion to postpone indefinitely is used sparingly and councils should not make a habit of using it to avoid making difficult decisions about matters properly coming before a meeting within council's jurisdiction and responsibility.	Yes	Yes
Commit or Refer	A motion to commit or refer is used in situations where council feels that further study is required on a matter before a decision is taken. The most common procedure in such a situation is to refer the matter to a committee. Many referrals to committees will be done informally at the time correspondence is dealt with or issues are first raised, but if a motion is already being discussed or if a motion is deemed appropriate, a procedural motion to refer or commit would be in order. The motion may also specify a time limit by which the matter should be reported to council.	Yes	Yes

4.7 Voting

Requirement to Vote

Councillors, mayors, and chairpersons vote on motions or resolutions before council with two exceptions; approved abstentions and instances where a conflict of interest is declared.

What the Legislation Says

Section 212 of the *Municipalities Act, 1999* states:
(2) A councillor shall not abstain from voting on a motion or resolution before the council unless he or she is required to abstain from voting because of a conflict of interest under section 207 or he or she has been permitted to abstain by a majority vote of the other councillors in attendance at the meeting.

Failure to vote will result in automatic dismissal from council.

What the Legislation Says

Section 206 of the *Municipalities Act, 1999* states:
(1) The office of a councillor becomes vacant where:
(h) he or she fails to vote on a matter before the council when required to vote;

Requirements to Pass Motions

A simple majority suffices to pass most motions with the exception of those requiring a 2/3rd majority. If one or more councillors abstain, the motion fails unless the number of councillors voting in favour is equal to or greater than a majority of councillors in attendance. **The motion is defeated if there is a tie**.

What the Legislation Says

Section 212 of the *Municipalities Act, 1999* states:
(3) Where a councillor abstains from voting on a motion or resolution, a decision shall not be made on that motion or resolution unless the number of councillors in favour of the motion or resolution is equivalent to or more than a majority of the councillors in attendance at the meeting.
(5) Where there is a tie vote on a motion or resolution, that motion or resolution shall be considered to be defeated.

Example 1
Consider a council composed of seven members, of which six are present at a meeting. One of the six councillors has declared a conflict of interest in a motion before council while another has been granted the right to abstain by a majority vote of council. In order for the motion to pass, each of the remaining four councillors at the meeting would have to vote in favour of the motion. If one councillor voted against, while three voted in favour, the motion would fail since the three votes in favour would not equal a majority of the six councillors in attendance at the meeting. In effect, the motion would be considered to be tied and would therefore fail.

Example 2
In deciding a question at a meeting with 7 of 7 councillors present, if 2 councillors abstain, 2 vote against and 3 vote in favour, the motion will fail as four votes in favour are required.

Instances Where 2/3 Majority is Required

Under the *Municipalities Act, 1999* certain motions require a 2/3 vote of the councillors in office, not simply those in attendance, in order to be passed.

Motions requiring a 2/3 majority to pass

SECTION	CONCERNING
14(2) and (3)	Creation, change, or repeal of a ward system
17(2)	Separate election for mayor
53(1)	Position and appointment of Town Manager
59(1)	Appointment of Town Clerk
67(1) and (2)	Suspension of town manager, clerk, or department head
68(1)	Dismissal of town manager, clerk, or department head
111(1)	Exemption, remission, or deferment of taxes
111(2)	Tax agreements and tax incentives
205(1)	Remuneration for council members
220(1)	Holding of Plebiscites

4.8 Role of the Public at Public Meetings

As in Section 4.2, councils are required to hold a public meeting at least once a month. For the most part, the public may attend and observe council proceedings but cannot participate in discussion. Councils often adopt, as part of their Rules of Procedure, a code of conduct for public attendance and often post this in a visible place or provide copies to the public as they enter the council chamber or meeting room. The code generally restricts the public from speaking or distracting the meeting in any way. It also outlines the consequences of breaching the code, including being asked to leave the meeting and council's right to adjourn if order cannot be restored.

The only exceptions to these restrictions on public engagement at a council meeting relate to presentations or delegations to council. Often, individual residents with a matter before council take an opportunity to attend the meeting when their matter is being discussed. In this context it may be acceptable for individual councillors, with the permission of the chairperson, to ask questions and seek points of clarification from the resident. Often the resident asked for an opportunity to speak to council on the matter of interest. As long as the conduct of the individual conforms to the general code, this is a perfectly reasonable approach to engaging citizens on matters of importance to them.

Council includes the protocol for requesting a presentation to council from individuals or delegations in the Rules of Procedure. This is encouraged as it makes the process transparent on the one hand and also facilitates scheduling presenters - too many delegations appearing at any one time can make for a long meeting. The process of citizen and stakeholder engagement is considered in greater detail in Section 7.

Conduct at Public Meetings (Sample)
1. Members of the public may only speak if their name or delegation has been placed on the agenda or if council is seeking clarification on an application, proposal or correspondence. 2. Delegations appearing before Council should appoint a single representative to speak on behalf of the group. 3. No member of the public in attendance shall interrupt any other person while speaking. 4. Personal comments, insulting remarks, foul language and gestures are not permitted. 5. Anyone speaking should direct their comments to the chairperson of the meeting and shall immediately stop speaking when the chair calls order. 6. Cell phones and other personal communication devices should be either turned off or set to vibrate during the meeting and no cell phone conversations are to take place in the chamber during the meeting.
Failure to Comply
Infractions of the above code of public conduct at council meetings can result in the following action: 1st Infraction – Warning from the chairperson that further infractions will not be tolerated 2nd Infraction – Violators are directed to apologize to the chairperson, councillor or other member of the public. If they refuse, they must leave the meeting room/Chambers and Town Hall. If they refuse, Council may adjourn the meeting and request that police remove the person. 3rd Infraction – Violators are ordered to leave the meeting room/Chambers and Town Hall. If they refuse, Council may adjourn the meeting and request that police remove the person.

4.9 Committees and Appointments to External Committees

Councils can set up standing and special committees and often appoint council representatives to groups, organizations and committees external to council. The *Municipalities Act, 1999* is quite general in stating the types of committees but there are **standing committees** (entirely made up of councillors) and **special (ad hoc) committees** which may include citizens not on council.

What the Legislation Says

Section 25 of the *Municipalities Act, 1999* states:
(1) A town council may establish the standing or special committees that it considers desirable to consider and make recommendations on matters referred to them by the council.

Other Types of Committees

External committees of council may or may not be incorporated and can engage individual municipalities for any number of reasons including such activities as regional fire service and waste management committees.

Types of Committees

Type	Description
Standing Committees	A *standing committee* refers to the fact that the committee *stands* or continues to exist for the life of the parent body, generally that of the council. They often have administrative responsibilities and include finance, administration, public works, planning and recreation.
Special Committees	A *special (ad hoc) committee* is established for a special purpose and when that purpose is completed, the committee is disbanded. They are useful for providing council with a comprehensive evaluation of a particular situation and the preparation of policy alternatives.
Citizen Advisory Committees	A *citizen advisory committee*, for instance a heritage advisory committee established under Section 200(2) of the *Municipalities Act, 1999,* differs from committees of council as they are made up members of the general public and one member of council to act as liaison between the committee and council. These committees are usually set up to get the views of citizens in a particular matter.
Commissions	A recreation commission or an arena commission is separate from council. One or more councillors may be members, and some commission functions may seem to fall under a council's general legislative authority on recreation matters. Commissions are normally incorporated under the *Corporations Act* and are not considered as committees of council, even though a council may, under the authority of Section 175 of the *Municipalities Act, 1999*, give grants or loans to such bodies.
Other External Committees and Appointments	Many councils appoint representatives to committees and organizations external to council, often in the context of shared service delivery and regional approaches. These may include regional waste management, fire service and recreation committees, regional joint mayors/ joint council forums and so on.

Advantages of Committees

Committees are a useful means of handling council business as:

- They provide an opportunity for council members to develop expertise in particular areas of council operations
- They provide the setting for a more comprehensive examination of questions than is possible in a full and open council meeting
- They can be used to provide an administrative overview of staff operations in towns without a manager.

While committees can be useful, particularly in towns without a town manager, council should take care to ensure that committees do not:

- Duplicate work if matters discussed at length in committee are re-discussed at length in council meetings
- Become a means of avoiding making a decision by referring the matter to a committee in hopes the committee will either bury the issue or, by the time the committee makes a decision, the problem resolves itself
- Overly-involves members in administrative detail to the detriment of council-staff relations

Establishment, Functions and Appointment to Committees

A resolution of council is generally required before establishing standing, special or citizen advisory committees or appointing council representatives to commissions or other external committees. The process for establishing committees and appointing representatives is in council's Rules of Procedure and considers such things as:

- Committee name and specific terms of reference/purpose
- Composition including members and the process for electing the chairperson
- Quorum and rules of debate
- Frequency and timing of meetings
- Reporting process
- Staff resources

Committee membership should be small, balancing the need for council input with that of achieving a workable committee process. Committees may be given limited administrative powers by council. While committees are able to oversee the implementation of council policy, they have no power to make policy on their own, only to make recommendations.

A committee must keep accurate records of their proceedings and recommendations for presentation to council by using staff. In addition, the advice of qualified and experienced staff can be invaluable at the committee stage of policy development.

Role of the Clerk/Administrator

Sections 56 and 62 of the *Municipalities Act, 1999* provide both the town manager and the town clerk the right to attend committee meetings at council's discretion and it is strongly recommended that in municipalities where there is a manager, that both the manager and clerk (or their designates) be asked to attend all committee meetings.

What the Legislation Says

Section 25 of the *Municipalities Act, 1999* states:
(2) A town council may appoint persons to serve on a committee established under subsection (1) and where a council does not appoint persons to a committee, the mayor shall appoint those persons.

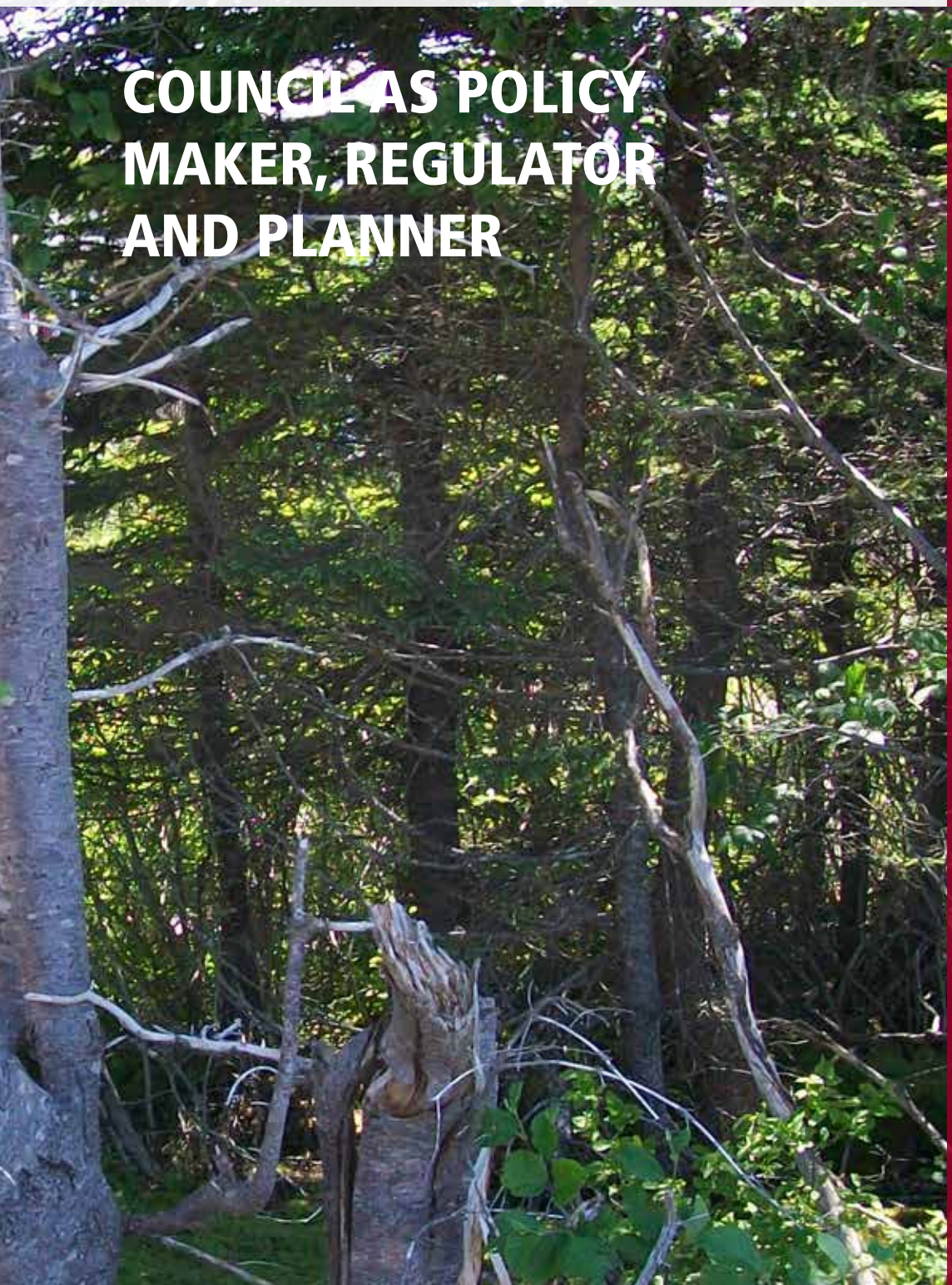
Reference Material/Other Reading

Henry M. Robert III and others, *Robert's Rules of Order Newly Revised*, 11th ed. (Da Capo Press, 2011).
Oxford Advanced Learners Dictionary - http://www.oxfordlearnersdictionaries.com/dictionary

STOP

SECTION FIVE

COUNCIL AS POLICY MAKER, REGULATOR AND PLANNER



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Council as Policy Maker, Regulator and Planner

5.1 Section Overview

This section outlines the municipal policy process, introducing key concepts in public policy. It considers council's primary role as a municipal policy maker, regulator and planner and makes a distinction between resolutions, regulations and by-laws. It identifies areas where council must enact regulations and where regulations are optional as identified within the *Municipalities Act, 1999*. It focuses on council's planning requirements under the *Urban and Rural Planning Act, 2000* and the benefits of having a municipal plan.

Objectives

After completing this section you will understand the following:

- *Key concepts in the public policy process*
- *Council policy approaches*
- *The distinction between regulations, resolutions, by-laws and other decisions of council*
- *Mandatory and discretionary areas for municipal regulation*
- *Enforcement*
- *The value of municipal plans*
- *The process of developing and amending a municipal plan*
- *Understanding Limit of Service Agreements*

Key Terms	
Policy Definition	The process of identifying and defining a problem that might be addressed by a policy.
Policy Evaluation	The process of evaluating policy to determine whether they have been affective in meeting policy goals.
Policy Goal	The goal of a particular policy, i.e. what issue of problem will the policy address.
Policy Implementation	The process of implementing and enforcing the legislative or regulatory tools selected to address the problem.
Policy Instrument	The legislative or regulatory tools utilized to address the problem.

5.2 The Public Policy Process

As an order of government, municipalities engage in public policy, responding to community needs through planning and regulation grounded in effective decision making. Understanding policy development and recognizing that many council decisions express public policy is critical. Policy is a response to a problem and the nature of the problem determines the character of the response. Good policy development represents an intersection of several critical elements – how the problem is defined, the goals that are set to address the problem, the instruments used to address the problem, implementation of the policy and the means by which the effectiveness of the policy are measured and evaluated. The examples below highlight the various stages of a municipal policy process.

Policy Definition

Do we need a crosswalk in front of the school?

A discussion on whether to place a crosswalk in front of a school might arise from a single parent making a complaint. The problem can be more clearly defined by the school principal identifying incidents where school children were at risk, supported by the school council and testimonials from school bus drivers on the need for a crosswalk.

The additional weight provided by the school principal to the complaint, along with evidence of the extent of the problem and the support of other stakeholders, provide council with a clear sense of the problem and potential elements of a policy goal. This is **policy definition**.

Policy Goal

What do we hope to accomplish by putting a crosswalk in front of the school?

Council can refer to the reported incidents where children were at risk and consider a policy goal that hopes to reduce or eliminate such instances.

Council can adopt an objective to reduce risk to children, demonstrating that council policy has helped address the problem. This is setting a **policy goal**.

Policy Instrument

How will we address the problem of a school crossing?

With the policy defined and goals set, council can consider available options to address the need for a crosswalk in front of the school.

Council options could include simply painting a crosswalk on the road and erecting warning signs on either side; or installing flashing yellow lights in addition to the signage and crosswalk; or, it could install a pedestrian-activated signal to warn motorists of children crossing; or, it could hire a school crossing guard. While each option addresses the problem, each has considerations around cost and other factors, such as liability, which will impact council's choice. This is choosing a **policy instrument**.

Policy Implementation

What have we decided to do to address the need for a school crossing?

With a policy defined, a goal set and an instrument chose, council must now implement its policy direction.

Once council has decided on a course of action by resolution of council, it must implement the policy. This will likely engage staff in implementing the policy instrument, i.e. overseeing painting of a crosswalk and the installation of warning lights and might even involve municipal staff and other partners, such as the RCMP, in enforcement. This is called **policy implementation**.

Policy Evaluation

How will we know if our school crossing policy has been effective?

Council will evaluate the policy effectiveness based on the policy goal and other indicators, as necessary.

Effective policy development requires evaluation. How will council know if its chosen course of action is producing the desired result? Following a period of policy implementation, council determines effectiveness by consulting with stakeholders. This stage is **policy (or program) evaluation**, which could result in redefining the policy, setting a new policy goal or modifying the policy instrument.

Role of Staff in Policy Development

Council staff may be engaged throughout the public policy process. In policy definition, council staff may speak with relevant stakeholders including parents, the school principal, the bus driver and school council to gain a better understanding of the problem. In setting a policy goal, council may contribute to defining what the actual intent of the policy may be. In determining the policy instrument, council staff may prepare various options for council to consider. Council staff may be engaged in overseeing implementation of the policy instrument and perhaps enforcement. Staff may be involved in evaluating the effectiveness of the policy by interviewing key stakeholders to determine whether the policy has resulted in the desired change.

5.3 Introduction to Council Policy

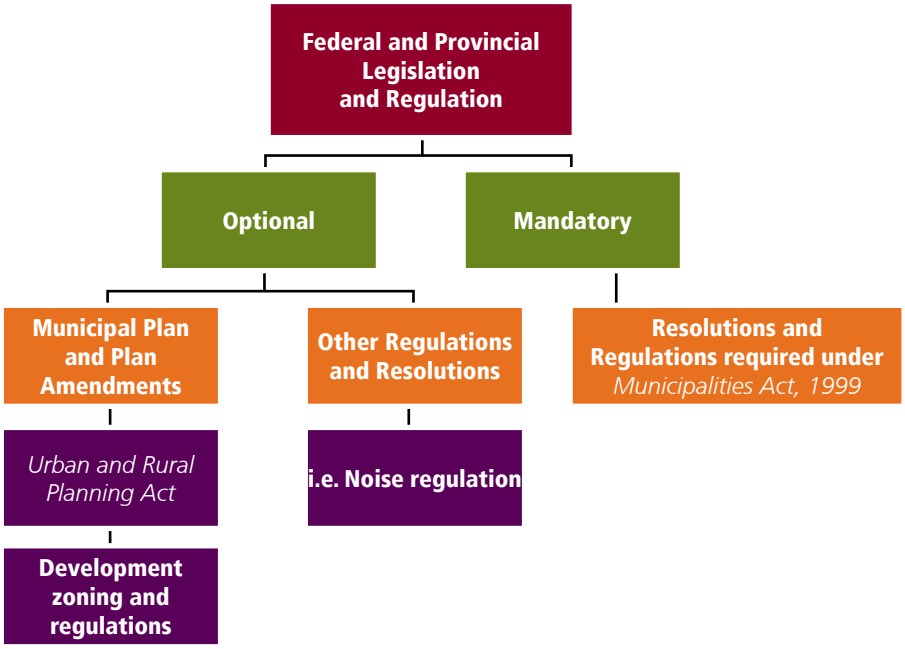
A council can set policy in any area that falls within its responsibilities and jurisdiction under the *Municipalities Act, 1999*, the *Urban and Rural Planning Act* and other legislation as long as such policy does not contradict provincial or federal regulation and legislation. In some instances authority for provincial legislation may be delegated to a municipality. To use the example from Section 5.2 above, council's decision to install a crosswalk would require consultation with the relevant provincial department or agency responsible for administering the *Highway Traffic Act*.

Council policy is a hierarchy beginning with mandatory regulations and resolutions, identified in the *Municipalities Act, 1999,* that council must adopt. An example would be the mandatory requirement to

appoint a clerk considered in Section 3.4 above or the requirement for a resolution of council to set or alter the town's tax structure. Council has no discretion in these matters and must comply with the legislation. Further, once a decision has been made, for instance to hire a clerk, council must now also comply with further legislation including the *Labour Standards Act and the Occupational Health and Safety Act.*

Should council wish to enact policy in areas that are discretionary, they must always comply with relevant provincial and federal legislation and generally act within their own municipal boundary or planning area boundary unless the policy is regional in nature and advanced by municipal partners comprising a larger region. In some instances, such as the development or amendment of a municipal plan, the process for enacting or amending regulations and other policy directions of council is proscribed, in this case by the *Urban and Rural Planning Act,* and the process must be adhered to by council.

Hierarchy of Council Policy



5.4 Resolutions and Regulations

Distinction between Resolutions and Regulations

Council resolutions are considered in Section 4.6. Any motion adopted by council is a *resolution*. While the *Municipalities Act, 1999* specifies actions must be taken *by a resolution of council*, most resolutions pertain to internal decisions of council's regular operations, particularly those of a housekeeping or routine nature. A regulation is a more formal legislative action by council, undertaken by resolution, designed to affect the behaviour or actions of all citizens and others within the municipality: rules which all must observe.

"Shall" Equals Must

Any reference within the *Municipalities Act, 1999* or other relevant legislation pertaining to municipalities that indicates that council, councillors, staff, residents or others **shall** do something can be taken to mean that they **must** do it in order to be in compliance with the *Act.*

Mandatory Regulations

There are a number of areas identified in the *Municipalities Act, 1999,* where council **must** enact a regulation.

What the Legislation Says

Section 414 of the *Municipalities Act, 1999* states:

(1) A council shall make regulations

- (a) to control the construction, location, use and maintenance of privies, sewer systems, septic tanks and sewers;
- (b respecting the digging, drilling, use and construction of wells and water supply systems;
- (c) prohibiting and controlling the use of a source of water that the council considers dangerous to public health and restricting or prohibiting the use of water in a municipality;
- (d) controlling and respecting the design, construction, alteration, reconstruction, minimum lot size and occupancy of buildings and classes of buildings and the demolition, removal, relocation and maintenance of buildings;
- (e) subject to the approval of the minister, respecting
  - (i) the control of and management of its fire department, and
  - (ii) participation of the fire department in emergency activities not related to firefighting or fire prevention; and
- (f) subject to the approval of the minister and the *Fire Protection Services Act*, respecting the prevention of fire in a municipality and the inspection of buildings in a municipality for fire prevention purposes.

Discretionary Regulations

In addition to mandatory regulations, council is empowered to make regulations in any of the following areas.

What the Legislation Says

Section 414 of the *Municipalities Act, 1999* states:

(2) A council may make regulations

- (a) respecting the control and management of water and sewage systems, storm drainage systems and water catchment areas;
- (a.1) respecting the control and management, at source, of the discharge of prohibited materials into the sanitary sewer and storm water sewer systems including regulations
  - (i) protecting the integrity of the sewage collection system, pumping stations and the treatment facility,
  - (ii) ensuring municipal wastewater meets provincial effluent criteria,
  - (iii) providing for the sampling, inspection and monitoring of the discharge of materials to the sanitary sewer and storm water sewer systems, and
  - (iv) establishing Codes of Practice for designated sector operations;
- (b) respecting the maintenance of public waiting areas;
- (c) controlling or prohibiting the use of a stand or vehicle, whether or not that stand or vehicle is self moving, drawn by another vehicle or person or is temporarily or permanently stationary, or is a stand or vehicle for the sale of food or goods;
- (d) respecting the method of the display for sale or rental in shops of pornographic books, magazines, films or other pornographic reading or viewing material;
- (e) respecting the entrance of minors into shops whose primary purpose is the sale or rental of material referred to in paragraph (d);
- (f) defining terms for the purpose of giving effect to regulations made under paragraphs (d) and (e);
- (g) prohibiting, restricting and controlling the running at large of dogs and other animals and restricting and controlling the keeping of dogs and other animals;
- (h) providing for the seizure and impounding of animals found at large or kept contrary to regulations;
- (i) prescribing fees for the impounding of dogs and other animals;
- (j) providing for the sale, seizure, destruction and disposal of diseased and impounded dogs and other animals not claimed and for which a fee is not paid in the time established by regulations;

(k) providing for the licensing and registration of dogs within the municipality and the renewal of licences and the period of validity of the licences;
(l) prescribing the form of dog licences and licence tags to be issued with the licences;
(m) prescribing the fees to be paid for dog licences and licence tags;
(n) providing for the appointment of dog licensing officers in the municipality;
(o) prescribing remuneration to be paid to licensing officers for licensing dogs and collecting and forwarding the fees to the municipality and providing for the payment to licensing officers of the cost to them of remitting the fees in addition to remuneration;
(p) respecting the number of dogs which a person may keep in a municipality;
(q) prescribing fines for the non-compliance or contravention of regulations made under this section;
(r) respecting the use, operation and location of places of entertainment subject to regulations made under the Act and the *Liquor Control Act*;
(s) prohibiting or controlling the time of operation and the operation in general of recreational vehicles, including motorized snow vehicles and all terrain vehicles, within the municipality and may require that a recreational vehicle be licensed;
(t) respecting parking lots and parking garages and controlling or prohibiting the parking of commercial vehicles within the municipality or certain areas of the municipality;
(u) to prevent the pollution of waters within or, subject to the minister's approval, outside the municipality, used or possessed by the council for the provision of the municipality's water supply or necessary for the future use of the municipality;
(v) respecting
  (i) the cutting of timber, or
  (ii) the erection or establishment of a building, structure or work:
  on, in, over or under land or water within the water catchment area providing the water supply, whether the watershed is wholly or partially within or outside the boundaries of the municipality;
(w) prescribing the specifications and quality of materials to be used to connect drains, sewers and water supply pipes to a building;
(x) for the protection of drains, sewers, and water supply pipes and for keeping them free from obstruction;
(y) requiring the owner or occupier, or both, of a building or part of a building that is within the boundaries of the municipality and within 60 metres, or the greater distance that may be prescribed in the regulations, of a public water supply system or a public sewage system to connect the building or other premises or part of the building or other premises to the system;
(z) providing that the connection of a building, or part of the building to a public water supply system, a public sewage system or a storm drainage system shall be done wholly or partly at the expense of the council or the owner or occupier of the building or part of the building or partly at the expense of both;
(aa) prohibiting the connecting of sewers, drains and water supply pipes to a building by a person other than an employee of, or other person engaged by, the council for that purpose and prescribing the conditions under which the council shall permit a person other than an employee of or other person engaged by the council to connect drains, sewers and water supply pipes to a building;
(bb) respecting the fixing, collecting, holding and repayment, with or without interest, by the council of deposits to be paid, in an amount in the discretion of the council, by the owner or occupier of a building to which water supply pipes, drainage pipes or sewage pipes are connected;
(cc) fixing the charges that the council may make for services it provides or performs for the purpose of connecting sewers, drains or water supply pipes to a building and fixing different charges in respect of different buildings or classes of buildings or in respect of different parts or the same part of an area serviced by the sewers, drains and water supply pipes;
(dd) designating real property as a heritage building, structure or land;
(ee) respecting noise or other nuisances, including the use of pellet and air guns;
(ff) establishing highway reservations, improvement lines, lines and building lines to existing and proposed highways and sidewalks;

(gg) with respect to economic development in the municipality;
(hh) prescribing the height and type of construction of fences and requiring the owner or occupier of a lot abutting on a public highway within the municipality to fence the lot and to keep and maintain the fence in repair to the satisfaction of the council;
(ii) prohibiting or controlling, subject to rights existing at the commencement of the regulations, the erection, maintenance and use upon or near public highways, sidewalks and bridges of telephone and electricity poles, signs and other objects and requiring their removal from one place to another and the removal shall be at the expense of the owner unless the location in that one place had been approved by the council;
(jj) prohibiting or controlling
(i) coasting, skating or sliding on snow or ice on public highways, bridges or sidewalks,
(ii) the use of, riding or driving of children's wagons, push carts, inline skates, skateboards, tricycles and other similar objects on public highways or sidewalks,
(iii) the wearing of bicycle helmets and bicycle and other safety equipment necessary for activities referred to in this paragraph, and
(iv) the operation of recreational and other vehicles not licensed under the *Highway Traffic Act* on public highways, bridges or sidewalks;
(kk)respecting the operation of bicycles within the municipality and the licensing of bicycles operated in the municipality;
(ll) prohibiting or controlling vehicular or pedestrian access onto or over a public highway or bridge;
(mm) protecting and preventing injury to public highways, bridges and sidewalks and trees, plants and structures contained within a highway reservation, and providing for the cleaning and removal of foreign matter from these public highways, bridges and sidewalks;
(nn) respecting winter maintenance of highways and snow clearing, including regulations which
(i) prohibit or control parking during winter months,
(ii) prohibit or control the erection of structures which impede or hinder winter maintenance of highways and snow clearing, and
(iii) prohibit or control the deposits of snow on sidewalks and public highways;
(oo) in accordance with sections 189 and 190 of the *Highway Traffic Act*;
(pp) respecting
(i) subject to the *Environmental Protection Act*, the administration and management of waste disposal sites, and waste management systems,
(ii) the storage and collection of solid waste,
(iii the prevention of littering, and
(iv) the definitions of waste and litter;
(qq)respecting the location, development and maintenance of cemeteries and crematoria;
(rr) respecting the use, size, illumination, erection and maintenance of signs in the municipality;
(ss) respecting taxis including
(i fixing the number of taxis in the municipality,
(ii) requiring the operators of taxis to have a licence to operate in the municipality and fixing a fee for those licences,
(iii) fixing fares for users of taxis,
(iv) requiring the inspection of taxis on an annual or other basis that the council may establish in the regulations,
(v) establishing standards for taxis, and
(vi) authorizing and assigning stands for taxis and the erection and maintenance of those stands, and
for the purpose of regulations made under this paragraph, the word "taxi" includes any vehicle which carries a passenger for a fare, fee or other remuneration;
(tt) respecting permits and licences and requiring that permits or licences be obtained, including temporary permits or licences, as required under this Act or regulations and fixing terms, conditions and fees applicable to those permits and licences;
(tt.1) respecting the square meterage area of a non-residential structure for the purpose of paragraph 114(d);
(uu) establishing curfews for children of stated ages, stating that children of these ages not be permitted on a public road, park or place of amusement during certain hours, alone or accompanied by a parent, guardian or other adult; and
(vv) respecting the use, protection and operation of recreational facilities acquired or established under this Act and the fixing of charges for admission to and for the use of those facilities.

5.5 Process of Developing Regulations

Why Regulations?

A council's ability to pass regulations is similar to the provincial or federal government's ability to pass laws. Within its boundaries, and within the authority granted under the *Municipalities Act*, *1999* councils can enact regulations which have the force of law. Regulations can be enforced, and citizens can be taken to court for contravention. Council exercises care in drawing up regulations to ensure they are necessary and can be enforced.

The purpose of regulations is to provide consistent rules allowing citizens undertaking development or commercial activity within the town the greatest degree of freedom compatible with the common good.

Key Questions

Consistent with the public policy process outlined in Section 5.2 above, it is important to ensure the following questions are answered before a regulation is passed:

- Why is the regulation needed?
- Will the passage of the regulation solve the problem?
- Does council have the authority to enact regulations in the area concerned?
- Does the wording of the regulation clearly state what council hopes to achieve?
- Will the proposed regulation conflict with or impact an existing council regulation?
- Does council have the means to enforce the regulation?

Components of a Regulation

There are several components that should be considered within any regulation, including:

- Title
- Interpretation/definition
- Application
- Permit
- Penalties
- Repeal of previous regulation and amendments

Adoption of Regulations

Regulations of council are considered throughout the *Municipalities Act, 1999* and council is empowered to make regulations consistent with Section 413.

What the Legislation Says

Section 413 of the *Municipalities Act, 1999* states:

(1) Regulations made by a council under this *Act* shall be adopted by a majority vote of the councillors in attendance at the meeting at which the regulations are made.

(2) A copy of all regulations adopted by a council and certified by the clerk shall be sent to the minister by the clerk within 14 days of their adoption by council.

Recommended Procedure for the Passage of Regulations

The *Municipalities Act, 1999* does not stipulate any specific procedure for the introduction, debate, or passage of regulations. Since regulations must be carefully worded and their implications understood, it is recommended the following process be followed to pass a regulation.

Procedure for Regulations

Procedure	Rationale
Notice of Motion	The introduction of a notice of motion allows time before the next council meeting for the town clerk to advise council of any existing regulations on the subject and for any interested member of the public to make their views known.
Motion to Draft Regulation	At the next meeting following the notice of motion, a motion to draft the required regulation is passed. This motion states the section of the *Municipalities Act, 1999* which gives council the authority to pass a regulation on the matter, and states as clearly as possible the provisions of the proposed regulation.
Obtain Legal Advice	The motion to draft the regulation is sent for a legal review along with existing regulations on the subject. It is strongly recommended council receive advice from a lawyer with regard to the precise wording of the regulation.
Pass the Regulation	Section 413 of the *Municipalities Act, 1999* states all regulations must be passed by resolution of council. The complete regulation is read at a council meeting or distributed beforehand, and care must be taken the vote is property conducted in accordance with Section 212 and that the results are clearly recorded in the minutes.
Advertise the Regulation	While the *Municipalities Act, 1999* does not require the public be advised of a new regulation, it is strongly recommended council advertise the passage of all regulations and amendments in the most effective way possible.
Send a Copy to the Minister	Section 413(2) of the *Municipalities Act*, *1999* requires a copy of all regulations passed by a council are sent to the Minister within 14 days of their adoption. Such copies are certified by the town clerk. It should be noted that any regulations on the following matters require the approval of the Minister **before** coming into effect: • To prevent pollution of watersheds outside the town boundaries: Section 414(2)(u); • Control and management of the town fire department: Section 414(1)(e)(i).
File in a Policy Manual	In order that successive councillors and staff have a clear idea of existing regulations, a policy manual is kept in which regulations are summarized alphabetically and by subject area. The complete wording of regulations is also included, and the manual must be kept up to date.

Role of the Clerk/Administrator

Section 61(1) of the *Municipalities Act, 1999* states that the town clerk is responsible for "recording the proceedings and decisions" of council. The maintenance of a policy manual reflecting regulations is consistent with this responsibility.

5.6 Need to Enforce Regulations

A general rule of thumb is that council should not legislate what it cannot enforce. Once a regulation is in effect, failure to enforce it may expose council to liability. It is critical, in considering the various policy instruments available, to determine resources and capacity to enforce a regulation. A decision to not enforce a regulation or allow a variance in one case may form a precedent and the basis of an appeal against a council decision in another case. Consistency and clear decisions cumulatively become the policies and regulations of council over time.

Orders and Permits

Regulations are enforced by requiring permits for regulated activities and by council's authority to issue orders for those not in compliance. Section 404 of the *Municipalities Act, 1999* allows council to make an order requiring compliance with a regulation of council.

What the Legislation Says

Section 404 of the *Municipalities Act, 1999* states:

(2) A person ordered to carry out an action or to stop an action under subsection (1) shall be served with that order and shall comply with that order at that person's own expense.
(3) An order made under this section continues in force until revoked by the council which made that order.
(4) A council may, in an order made under subsection (1), specify a time within which there shall be compliance with the order.
(5) Where a person to whom an order is directed does not comply with the order or a part of an order made under subsection (1), the council may take the action that it considers necessary to carry out the terms of the order and any costs, expenses or charges incurred by the council in carrying out the terms of the order are recoverable from the person against whom the order was made as a debt owed to the council.
(6) A council may delegate to an official or employee of the council the power to issue orders under this section.

Councils may also issue permits in relation to activities.

What the Legislation Says

Section 407 of the *Municipalities Act, 1999* states:

(1) A person may apply to a council for a permit required under this Act in the required form and accompanied by the information which the council may require.
(2) A council may, where a person makes an application under subsection (1), require that person to submit additional information that it considers necessary.

Offenses, Violations, Penalties and Prosecution

Enforcement of regulations implies a level of consequence for those who fail to comply with. As outlined above, penalties are considered in the process of developing a regulation, specified within the regulation and advertised as part of the general notice of the regulation.

Sections 419 to 421.4 of the *Municipalities Act, 1999* considers offences, penalties, prosecution, violations and also empowers council to employ staff for the purposes of issuing notices of violation and summons.

5.7 Development and Building Controls

The control over land use and buildings is one of the most important council functions. Local government is given power under the *Urban and Rural Planning Act, 2000* and the *Municipalities Act, 1999* to regulate the use and development of land and buildings within, and sometimes outside of, the town boundary (see Section 5.8). In doing so, they balance the interests of individuals with those of the whole community. Good planning and development and the enforcement of zoning regulations can help reduce servicing costs, promote economic development, and assist resources management.

New developments require permits issued under building controls (under the *Municipalities Act, 1999*) and development controls (under the *Urban and Rural Planning Act, 2000*).

What the Legislation Says

Section 194 of the *Municipalities Act, 1999* states:
A person shall not within a municipality
(a) erect a building;
(b) extend, repair, relocate or demolish an existing building;
(c) change the use for which an existing building is or was last held or occupied; or
(d) occupy a building that has been vacant for a period of 6 months or more or a newly constructed building,
except in accordance with a written permit from the council.

In general, the order of Council permits should be as follows:

- Development Permit
- Building Permit
- Occupancy Permit

It is important for council to issue or refuse a permit under the appropriate regulations as failure to do so will weaken council's position in an applicant's appeal. Council's authority to refuse a building permit comes from its mandatory adoption of the National Building Code of Canada as its building code.

What the Legislation Says

Section 414(3) of the *Municipalities Act, 1999* states:
(3) In making regulations under paragraph (1)(d), a council shall adopt the National Building Code of Canada and supplements or amendments to that Code and may adopt standards which exceed the requirements of that Code and its supplements and amendments.

5.8 Municipal Plan

A municipal plan guides all council decisions related to development. In effect, the municipal plan is the development policy, sets goals and identifies development opportunities. The plan's zoning and regulations are the **instruments** through which the development policy is implemented.

The Value of a Municipal Plan

A council is not required to adopt a municipal plan, but there are a number of advantages of doing so.

- A municipal plan allows council to prevent undesirable or unaesthetic development.
- A municipal plan allows council to control the types of housing or businesses developed in particular areas of the community.
- A municipal plan allows council to direct development to areas already serviced or which can be more easily serviced thereby reducing service costs.

Distinction between Municipal Boundary and Municipal Planning Area

Generally, a council is limited to regulating activities within its municipal boundary. However it may request, as part of developing a municipal plan, to include areas outside its boundary.

What the Legislation Says

Section 11 of the *Urban and Rural Planning Act* states:

(1) Where an application is made under subsection 10(2), the minister may designate an area in respect of which the application is made as a municipal planning area and may define its boundaries.

(2) A planning area defined under subsection (1) may include land outside of the municipality governed by the council that applied to the minister where, in the opinion of the minister, that land is necessary to enable the council to

(a) exercise control over development relating to the municipality that may occur beyond its boundaries;

(b) control watersheds for the purpose of municipal water supply, whether within or outside its boundaries; or

(c) control the amenities of the municipality.

Procedure for a Municipal Plan

Step	Action
Council resolution	Council, by resolution, proposes to prepare a municipal plan.
Application to Minister	Council applies to the Minister of Municipal Affairs and Environment to define the area to be included in the plan, including those areas which may be outside the municipal boundary yet within a proposed municipal planning area (see *Distinction between Municipal Boundary and Municipal Planning Area* above). The application is accompanied by a certified copy of the resolution, a description of the area to be included, and a statement of arrangements for the preparation of the municipal plan.
Minister's powers	The Minister may include control of development beyond the town boundaries in the municipal planning area, such as town watersheds.
Interim Development Regulations	The Minister may grant temporary control of development within the Planning Area through interim development regulations, giving the town discretionary power with regard to the issuance of development permits allowing council to control development during the plan preparation (see Section 34, *Urban and Rural Planning Act, 2000*).
Preparation of the Municipal Plan	A municipal plan is prepared and certified by a member of the Canadian Institute of Planners. It includes a statement of objectives, indicates the policies to be implemented, establishes land class uses, includes proposals for land use zoning regulations and provisions for non-conforming uses, and provides a 10-year development window. The plan may also: • Describe the town's physical, economic, and social environment; • Describe existing and proposed street and transportation networks; • Establish areas for comprehensive development; • Establish a program of public works; • Provide for the protection of environmentally sensitive lands; • Provide for storm water and erosion control; • Provide for natural resource protection and development; • Require environmental studies prior to development; • Provide for economic activity; and • Provide for senior citizen housing.
Public and Stakeholder Consultation	Section 13 of the *Urban and Rural Planning Act, 2000* requires that Council consult with the public and stakeholders prior to and during the development of a Municipal Plan. Council can choose the nature of the consultation program; that act requires that consultation be consistent with size, structure and complexity of the issues considering in the planning process.
Departmental Review	After consultation, Council and its Planner complete a draft plan and submit the plan to the Department of Municipal Affairs and Environment. The Department reviews the Plan to determine provincial or other government agency interests. The Department will formally release the Plan from the review process with or without recommendation as to changes that may be necessary to comply with provincial interests.
Council Adoption	Council considers any commentary or suggested changes made by the Department to comply with provincial interest and when satisfied, adopts the plan and regulations by majority vote.

Step	Action
Notice of Adoption and Appointment of Commissioner	Council advertises that Council adopted the proposed and sets the time and place for representations and objections and allows a lead time for public inspection of the plan and regulations. Council appoints a commissioner and, if desired, an assistant, to conduct a public hearing. The commissioner's remunerations, costs, and expenses are borne by the municipality. If no objections or representations are made within two days before the scheduled hearing, council may cancel the hearing. If objections or representations are received within time limits, the commissioner proceeds with the hearing and submits a report to council. Council considers the report and may makes changes to the plan, withdraw it, or leaves as originally adopted. If changes are made, the council may schedule another hearing or approve the plan as amended. The plan and regulations, as submitted or amended, are sent to the minister with the commissioner's report of objections and representations.
Registering the Plan	The Minister reviews the plan and regulations to determine ensure they comply with law and policies of the province. If all is in order, the minister registers the plan. Council publishes a notice of the registration within 10 days. If the plan is not acceptable, it is returned to the council along with reasons it is unacceptable. Council makes requested changes and resubmits the plan.
Amending the Plan	Once a municipal plan is registered, it is binding on council and on all others, and can only be amended by following the procedures set out for the original approval process. Many councils require amendment proponents proposing to cover the costs associated with the amendment process.
Reviewing the Plan	Council reviews and revises, if necessary, the plan at year five. If revisions are not required, the council, by majority vote, may retain the existing plan. In this case, a copy of the decision together with a report on the consultation process is submitted to the minister for registration.

What the Legislation Says

The procedure of developing a municipal plan is considered within the *Urban and Rural Planning Act, 2000* specifically Sections 12-30 while other sections refer to the initial resolution to develop a Municipal Plan (Section 10), Interim Development Regulations (Section 34), and Regional Planning Areas (Sections 6-9).

Regional Planning Area and Authority

Provision is made in the *Urban and Rural Planning Act, 2000* for two or more municipalities to ask the minister to define a regional planning area and to designate a regional planning authority to administer a regional plan.

What the Legislation Says

Section 6 of the *Urban and Rural Planning Act, 2000* states:
(1) A council, person or group of persons or a combination of them may apply to the minister requesting him or her to define a regional planning area.

Section 7 of the *Urban and Rural Planning Act, 2000* states:
(1) The minister may designate a council, person or group of persons or a combination of them who have applied to him or her under subsection 6(1) as a regional authority for the regional planning area that is the subject of that application.

5.9 Limit of Service Agreement

A Limit of Service (LOS) Agreement is a formally-executed and legally binding document which defines certain principles agreed between the Municipality and the Department of Municipal Affairs and Environment. The document consists of two inseparable parts – the text portion and the map portion. The map identifies the particular roads that are included within the Limit of Service Area while the Agreement states that those specific roads are eligible for consideration for provincial cost-shared funding for the capital cost of providing basic municipal service infrastructure including roads (with or without pavement), water distribution/supply systems as well as sewage collection and disposal systems. Roads excluded are not eligible.

Municipal capital funding programs are mandated for the purpose of assisting towns in providing infrastructure for services in areas of existing development, where problems exist with the present situation or scheduled upgrades are required. Beginning in 1990, Government defined criteria whereby those areas could be identified, as they existed at the time, and conferred with municipalities to specifically apply those criteria in the form of the LOS Agreements. These serve as a guide to Government in its consideration of requests for support under the various available funding programs. Municipalities have a responsibility for orderly and proper development outside of the LOS area and government is generally unprepared to invest public funds in new development of land which should be addressed by the town and those most directly benefitting from such development such as developers and property owners.

The LOS Agreement itself is generally not subject to change. What may be amended, as provided for in the Agreement, is the plan portion and there are only two warrants for approval of a change;

- If a particular area was omitted in error when the plan was initially adopted, that error can be corrected. It is incumbent on the town to substantiate that development at the time (usually 1990-91 for most Agreements) was to a density level which met the criteria. That is usually done by providing copies of past tax records or building permits and documentation showing the town's ownership and maintenance of such areas.
- If, since 1990, the area has been fully developed to standard levels of service and quality of construction (such as a new subdivision), then the area can be included for future consideration.

Any request by a municipality for such amendment can be discussed with the Regional Office of MAE for guidance through the review process.

Reference Material/Other Reading

Leslie A. Pal, *Beyond Policy Analysis,* Thompson Neilson, 2004.

SECTION SIX

COUNCIL BUDGETING AND FINANCIAL ADMINISTRATION

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Council Budgeting and Financial Administration

6.1 Section Overview

This section considers council responsibilities in municipal tax policy, financial administration (annual budgeting and auditing) and developing long term capital budgets based on planning requirements. It also considers procurement of goods and services and the disposal of assets.

Objectives

After completing this section you will understand the following:

- *The importance of financial planning and management*
- *The requirement for annual budgeting and the municipal government budget template*
- *Sources of revenue and allowable taxes and fees*
- *Types of expenditure*
- *Annual requirement for financial statements and audit*
- *The Public Tender Act*
- *Asset disposal*

Key Terms	
Capital budget	Refers to expenditures for equipment, buildings, and works (such as road paving or water and sewer installations) which are expected to last more than one year and the general practice is to pay for capital works and equipment over a period of years.
Capital reserve fund	A fund established by Ministerial approval that allows council to put aside money each year for a future capital expenditure. The money in a capital reserve fund can be invested to earn interest in capital reserve.
Conditional grants	Grants that may be used only for the purpose for which the funds were given.
Current budget	Outlines a municipality's estimated revenues and expenditures for a one-year period.
Current expenditures	Those expenditures for goods and services which will be used within one year.
Fee for service arrangements	Arrangements made by councils with other municipalities for the provision of services on a fee basis – fees often set on per household basis served.
Joint service arrangements	Arrangements made by two or more councils where the provision of a particular service is jointly shared, operated and governed by participating communities – fees often set on per household basis served.
Mil rate	Mil, which means one thousand, is the basic component in the calculation of the mil rate. The calculation is $1 for every $1,000 of the property's assessed value.
Operating reserve fund	A fund established by Ministerial approval that allows council to put aside money each year for expenditure of a specified purpose, amount and period. The money in an operating reserve fund can be invested to earn interest.

6.2 Sound Financial Planning, Management and Controls

Council Role

Raising revenue and allocating funds are part of the political process of municipal government. Like any government, business or organization, municipalities need revenue to operate, and the services provided are directly related to the revenues raised. In order to keep within budget, council must track expenditures and make choices about priorities. Councillors rely on staff for financial information and advice but only council is responsible for a town's financial affairs.

Councillors are engaged in financial planning and management but the average councillor is not expected to have accountant or auditor skills. Each councillor should be able to understand the budget process and financial statements in order to monitor the town's financial position. As the trustees of town funds, council members are responsible to citizens to ensure money is spent prudently and efficiently and taxes are collected. In order to meet these responsibilities councillors are fully informed about all aspects of town finances. Without this knowledge, financial planning and management is impossible.

Sound Financial Planning

Characteristic	Rationale
Plan Ahead	In a four-year term of office, councils have an opportunity to create plans for every municipal activity. Planning replacement of office equipment, machinery, vehicles, or playground equipment, for example, can prevent unexpected expenses.
Preventive Maintenance	A preventive maintenance program for vehicles, equipment, and infrastructure can prolong the useful life of these items. The money saved by avoiding early replacement can be put to other uses.
Realistic Budget	A budget must be realistic. The temptation to understate expenses and overstate revenue in order to avoid a tax increase is to be avoided. A good guide to a realistic budget is the actual revenues and expenditures of previous years, although changed circumstances and programs may make adjustments necessary.
Stick to the Budget	Even the most realistic budget is of little value if it is ignored in practice. Councillors are provided with a monthly statement of revenue and expenses, and comparative figures from the previous and the current annual. Council can then watch for the danger signs of over expenditure or insufficient revenue and take corrective action.
Decrease Expenses	Council should always look for ways to provide services efficiently. Bulk purchases of office supplies, road supplies, or joint purchase with neighboring towns might lower cost.
Increase Collection of Tax Revenues	Increasing the level of tax collections is important. In order to improve tax collection, councils may offer inducements (for example a 5% discount for early payment) or provide a monthly payment option. Early payment improves cash flow, reducing council reliance on operating lines of credit while enabling council to invest surplus funds until they may be needed (see below). Enforcing payment of arrears by bringing delinquent taxpayers to court or shutting down their services may collect tax arrears. Council ensures every effort is made to collect all taxes.
Invest Surplus Funds	A surplus invested in Guaranteed Investment Certificates or safe short term notes will maximize interest revenue until the money is needed for expenses.

Adequate Controls

One of the areas considered under Section 8 – Council and Good Governance is identifying and managing risk. One of the key areas from a financial control and management perspective in relation to risk is putting in place adequate measures to govern how funds are received by council, particularly council staff.

One area that causes consistent problems is the proper recording and receipting of cash payments received on taxes due or other fees such as permits. Wherever possible, council should limit cash transactions, encouraging residents and taxpayers to utilize alternative forms of payment such as cheque, money order or debit payment. Where cash has to be handled, council policy must be to insist on proper receipt keeping and taxpayers and those others paying fees should always be encouraged to ask for and obtain a receipt for any cash transaction. Policy in this regard protects staff, the town and the taxpayer and is an important aspect of loss control and risk management whether in private enterprise or local government.

6.3 Budgeting Requirements

Distinction between current and capital budgets and expenditures

The budget process generally distinguishes between two types of budgeting. **Current expenditures** are those for goods and services which will be used within one year while the **current budget** outlines a municipality's

estimated revenues and expenditures for a one-year period. **Capital budget** refers to expenditures on equipment, buildings, and works (such as road paving or water and sewer installations) which are expected to last more than one year and the general practice is to pay for capital works and equipment over a period of years.

Annual Budget Submissions

The *Municipalities Act, 1999* requires council to submit an annual current budget and a five-year capital budget to the Minister by December 31 of each year using the Department of Municipal Affairs and Environment prescribed format.

What the Legislation Says

Section 77 of the *Municipalities Act, 1999* states:
(1) A town council shall, not later than 90 days after the day on which the council takes office following a general election of councillors and not later than December 1 in each succeeding year, prepare and adopt a budget containing estimates of the revenue and expenditure of the council for the next financial year and a statement showing tax rates that shall be imposed during that year.
(2) A budget adopted under this section shall be in the required form and a copy shall be sent to the minister before the end of the calendar year of its adoption or in the case of a new council, within 30 days of its adoption.

Section 94 of the *Municipalities Act, 1999* states:
(2) A council shall, before the end of each year, submit to the department a 5-year forecast of its anticipated capital expenditure requirements.

Municipal Budget Submission Form

The Department of Municipal Affairs and Environment supplies a standard Municipal Budget Submission Form to towns each year along with other resources and training to assist with budget preparation.

Multi-year (3 year) Budgeting

Councils may adopt a three-year budget, allowing council to plan projects from current revenue spanning more than one year and providing stable tax rates.

What the Legislation Says

Section 77 of the *Municipalities Act, 1999* states:
(3) Notwithstanding subsections (1) and (2), a town council may adopt a 3 year budget containing estimates of the revenues and expenditures of the council for that period and showing the tax rates that are to be imposed during that period.

Postponement of Annual Budget Submission

Council can extend the budget submission beyond December 31 each year with the Minister's permission.

What the Legislation Says

Section 77 of the *Municipalities Act, 1999* states:
(4) Notwithstanding subsections (1), (2) and (3), the minister may approve and authorize the postponement of the preparation, adoption and submission of a budget to a date which he or she may determine.

Expenditures to Not Exceed Revenues

In preparing a budget, council must remember expenditures cannot exceed revenues.

What the Legislation Says

Section 78 of the *Municipalities Act, 1999* states:
In a budget proposed expenditures shall not exceed anticipated revenues.

Allowable Sources of Revenue

A budget can include only local revenue, including taxes and fees, and authorized grants.

What the Legislation Says

Section 79 of the *Municipalities Act, 1999* states:
(1) A budget shall only include
  (a) local revenue; and
  (b) federal and provincial revenue for which written authorization has been received.

The Budgeting Process

Over time, budgeting becomes routine. Council and staff project revenue and spending based on past experience to facilitate budget preparation. Allowances are made for planned capital works that might increase expenditure over previous years and, from time to time, projected revenues may be adjusted, particularly in years when an updated municipal assessment is available and property taxes may increase. Additionally, a shift in a major revenue source, such as the opening or closing of a business, may impact revenues. For the most part though, council normally sees little budget change from year to year.

Operating and Capital Reserve

With the prior written approval of the minister, councils may establish an **operating reserve fund** for a specific period for a specific purpose. This allows council to put aside money each year for a future expenditure, saving rather than borrowing money. The money in an operating or capital reserve fund can be invested to earn interest.

What the Legislation Says

Section 79 of the *Municipalities Act, 1999* states:
(2) Expenditures shall not be provided in a budget for capital reserves except where a council has considered it necessary to set aside in the financial statements a reserve from the accumulated surplus to invest for specific purposes of a capital nature.
(3) Notwithstanding subsection (2), a municipality may provide for an expenditure in its budget for a capital reserve where the municipality considers it necessary to establish a capital reserve for a specific capital project and that reserve shall appear in its audited financial statement.
(4) The unappropriated accumulated surplus or accumulated deficit, appearing in the audited financial statements at the end of the previous financial year, shall be credited or debited as items of revenue or expenditure in the budget of the next financial year.
(5) Where the amounts of unappropriated accumulated surplus or accumulated deficit, referred to in subsection (4) are, in the opinion of the minister, substantial they may be credited or debited in future budgets over a period of years that may be determined by the minister.
(6) An operating reserve fund may be provided for in a budget, subject to the prior written approval of the minister, for a specific purpose, a specified annual amount and over a specified period of years that the council shall approve.
(7) A reserve fund under subsections (3) and (6) may be invested by the council.

Adjusting the Budget within a Current Fiscal Year

An unexpected expense or an unanticipated revenue shortfall requires a *revised* budget be adopted and sent to the Minister for approval within two weeks.

What the Legislation Says

Section 80 of the *Municipalities Act, 1999* states:
(1) Where, during a financial year, it appears that the actual revenue and expenditure is likely to be substantially greater or less than estimated, the council shall prepare and adopt a revised budget in the required form.
(2) A copy of the revised budget shall be sent to the minister and in the case of a region to the city and town councils in the region within 2 weeks of its adoption.

Exceeding Projected Expenditures

The budget must be as realistic as possible. It cannot overestimate revenue nor underestimate expenditures as councils are prohibited from spending more than their budgeted estimates without Ministerial approval.

What the Legislation Says

Section 81 of the *Municipalities Act, 1999* states:
A town council shall not, without the prior approval of the minister, incur, enter into, contract, or become liable for an expenditure or indebtedness exceeding the total estimated expenditure or indebtedness approved in the annual or revised budget.

Budget Consultations and Stakeholder Engagement

Council routinely engages other community and regional stakeholders, such as a heritage or recreation committee, in budget preparation to better determine their priorities and requirements and how to reflect these within the budget. In addition, some councils are involved in **joint service** and **fee for service arrangements** (see Section 4) with other towns, either delivering or purchasing services. These arrangements, considered in detail in Section 7, imply consultation and engagement with municipal and regional partners.

Best Practice
Federal and provincial governments conduct pre-budget consultations, giving various stakeholders an opportunity to input into the budget. Some towns use this approach, inviting community organizations, other stakeholders, and the public to the budget process.

6.4 Revenues

Categories of Revenue

Revenue falls into two categories:
- Local - funds raised by taxes, fees and licences
- Grants - conditional and unconditional grants from provincial and federal governments

Locally raised revenue and that transferred from other governments are used for current or capital expenditures. *Conditional grants* are used only for the purpose for which the funds were given.

Taxes, Fees and Licences

Local revenue is raised by the municipality through taxes, fees, and licences imposed on town citizens and businesses. This revenue accords with the *Municipalities Act, 1999* and all taxes imposed in a fiscal year are authorized by a council before April 1 of each year.

What the Legislation Says

Section 101 of the *Municipalities Act, 1999* states:
(1) All taxes that may be imposed or varied by a council shall be imposed or varied by a resolution of that council before April 1 in the financial year in which the tax or tax variation is to be applied.
(2) A council may, in the resolution imposing or varying the tax, set out the date when the tax is due but that date shall not be later than June 30 of the financial year in which the tax is imposed.
(3) Where a tax is imposed or varied by a council before April 1 of the financial year, that tax shall be considered to have been due from the beginning of the financial year, unless a later date is set out under subsection (2).

Tax Structure

Councils are required to publish the annual tax and fee structure.

What the Legislation Says

Section 109 of the *Municipalities Act, 1999* states:
(1) A council shall publish annually a copy of its tax structure in a newspaper circulated in the municipality and by public notice in the municipality.

Taxes are due and payable from the first of each year and councils can set a deadline for the receipt of taxes, not later than June 30 of each year, after which interest and other recovery methods may be initiated by council. Council can provide a discount for early payment, charge interest for late payments, develop more flexible installment schedules for the payment of taxes and allow the tax to be paid by the provision of services or materials to the council.

What the Legislation Says

Section 101 of the *Municipalities Act, 1999* states:
(2) A council may, in the resolution imposing or varying the tax, set out the date when the tax is due but that date shall not be later than June 30 of the financial year in which the tax is imposed.

Section 103 of the *Municipalities Act, 1999* states:
(1) A council may determine the manner of payment of a tax or service charge imposed under this Act.
(2) A determination made under subsection (1) may permit the payment of a tax by the provision to the council of a service or materials of a value equal to the amount of the tax.

Section 107 of the *Municipalities Act, 1999* states:
(1) A council may charge simple or compound interest on taxes that are not paid on or before the date on which they become due, if, before making that charge, the council passes a resolution establishing whether the interest shall be simple or compound, the rate of interest to be charged and when that interest shall be applied.

Section 108 of the *Municipalities Act, 1999* states:
A council may allow a discount in respect of taxes imposed under this Act where the tax is paid within the time period which that council may establish, so long as before allowing that discount that council passes a resolution establishing the rate of discount and the time period within which the tax is to be paid.

Types of Local Revenue

Type	Reference in *Municipalities Act, 1999*	Description
Property Tax	Sections 112-113	Council may impose a real property tax which is fixed as a percentage of the assessed value of property in the municipality as set out in the current assessment roll.
Commercial and Residential Rates	Section 112-114 and Section 118	Permits a council, by resolution, to establish different minimum real property taxes for residential and commercial property. Where property is owned by more than one person, council may designate one person to be designated the owner for the purposes of imposing the real property tax. Certain types of property, such as churches, hospitals, and schools are exempt from real property tax.
Assessment Roll		The assessment roll is prepared by the Municipal Assessment Agency which determines the assessed value of real property in a municipality. The City of St. John's prepares and maintains its own assessment roll.
Mil Rate		Mil, which means one thousand, is the basic component in the calculation of the mil rate. The calculation is $1 for every $1,000 of the property's assessed value.
	Section 112(2)	The mil rate is applied uniformly to all residential properties; a different rate is imposed on commercial properties.
Water and/or Sewer Tax	Section 130	A council with a water or sewage system imposes a water and sewage tax. All property owners with buildings or land capable of being serviced must pay the tax, whether or not they use the service.
	Section 131(1)	Where a real property tax is imposed in a municipality, the water and sewage tax shall, for residential and commercial buildings or property on which there is no building, be set as a (a) fixed amount in addition to the mill rate that may be determined by the council; (b) mill rate that may be determined by the council; or (c) fixed amount or metered rate, and the amount or rate of tax may differ in respect of residential and commercial buildings, and different classes of residential buildings and commercial buildings.
	Section 131(2) and (3)	Towns without a real property tax may set the water and sewage tax at a flat rate or, if meters are installed, at a metered rate.
	Section 131(1) and (2)	Unlike property tax, the rate of a water and sewage tax may differ between various types of property.
	Section 131(7)	In the case of public buildings, such as a school or hospital, the rate must be the same as that charged to other similar properties in the municipality.
Poll Tax	Section 126	A council may impose a poll tax on a person who is 18 years of age or older and who is ordinarily resident in the municipality or who is employed in the municipality for not fewer than 90 days in total during the financial year of the council and an individual, partnership, association or corporation who is not ordinarily resident in the municipality but owns real property in the municipality.
	Section 127	Possible exemptions to poll tax are outlined in Section 127.
	Section 128	Council can request employers provide names of employees and deduct the poll tax from their pay.
Business Tax	Section 120	Council is required to impose a business tax on persons and companies carrying on business within the municipal boundaries.
	Section 125	Council may impose different rates of business tax on different types of businesses and may set a minimum business tax for each type of business.
	Section 121	In cases where the council has not imposed a property tax, business tax may be based on either a percentage of the business's gross revenue or a percentage of the assessed value of the property used by the business.
	Section 122	In cases where a business has no fixed place of business within the municipality, the business tax must be set at a percentage of the business's gross revenue.
	Section 123	Where council has imposed a real property tax, the business tax must be a percentage of the assessed value of the property used by the business.
Local Improvement Assessments	Section 149(1)	Council may levy a local improvement assessment on properties which have directly benefited by a public work such as the construction of water or sewer lines, the installation of curbs, gutters, or sidewalks, or the upgrading of streets.

continued...

Type	Reference in *Municipalities Act, 1999*	Description
	Section 150	Individual assessments are based on the amount of frontage each property has in relation to the total amount of frontage over which the work is being charged.
	Section 152	Once a council has decided to impose a local improvement assessment on one particular work, it must also impose assessments on similar works in the future.
	Section 154	Like the real property tax, unpaid local improvement assessments become a lien attached to the property involved.
Service Levies	Section 149(2)	Council may impose a service levy on property which is capable of being developed, which will have an increased density of development, or will have an enhanced value by virtue of council's development or expansion of municipal services.
	Section 150(4)	The amount of the service levy is based on the amount of real property benefited by the public work in relation to the amount of real property benefited as a whole, and the density of development made possible or increased by the public work.
	Section 154	As with local improvement assessments, unpaid service levies become a lien attached to the property involved.
Direct Sellers Tax	Section 129	Councils may impose a fixed amount direct seller's tax on any direct seller as defined by the *Consumer Protection and Business Practices Act* that does business within the municipality and is not liable to pay a normal business tax under Section 121 and 123.
Licenses and Permits	Section 414(2)(tt)	Council is authorized to charge a fee for a permit or license.
Grants in Lieu of Taxes		Municipalities are not permitted to levy any form of a tax on the property of the provincial or federal governments, including Crown Land. Without some form of compensation, this would be unfair to municipalities which have a number of provincial or federal buildings within their boundaries, therefore a grant in lieu of (or instead of) taxes is given to the municipalities by the federal government and some provincial agencies. The federal government pays this grant only to municipalities which have imposed property tax.
Tax Agreements	Section 111(2)	A number of municipalities have tax agreements with major employers in their communities, such as fish plants, mining companies or pulp and paper mills. Such tax agreements are authorized under of the *Municipalities Act, 1999*, but must be passed by a vote of 2/3 of the councillors in office.
Miscellaneous		There are a number of other sources from which a municipality may gain revenue, such as a surplus on the operation of recreation facilities, or the sale of municipal-owned building lots. Councillors should explore all legitimate ways of increasing a municipality's revenue in their quest for a balanced budget.

Exceptions to Taxation

The Municipalities Act, 1999 permits council, by a two-thirds vote of councillors, in office to grant an exemption, remission, or deferment of all or part of an individual's taxes and interest.

What the Legislation Says

Section 111 of the *Municipalities Act, 1999* states:

(1) A person may apply to a council for, and the council may, by a vote of 2/3 of the councillors in office, grant an exemption, remission or deferment of taxes and interest on the taxes, either in whole or in part, for those periods of time that the council decides and the council may determine the evidence which it shall require to warrant the exemption, remission or deferment.

Since most locally raised revenue comes from a variety of taxes, it is important tax collection be kept up to date and every effort is made to collect outstanding taxes. Taxes and interest on arrears can be collected as a civil debt through court action against the delinquent taxpayer. In order to reduce the necessity to borrow operating funds, it is essential to ensure tax bills are sent out as early as possible and collection efforts start as soon as taxes become overdue.

What the Legislation Says

Section 133 of the *Municipalities Act, 1999* states:
All taxes imposed under this Part, together with interest owing on those taxes and reasonable costs of collection for those taxes may, in addition to all other lawful methods of civil debt collection, be sued for and collected by an action in the name of the council as a civil debt due to the council.

Council may also seize the rentals payable by tenants of real property in order to collect tax arrears of the owner on that property.

What the Legislation Says

Section 148 of the *Municipalities Act, 1999* states:
(1) In addition to all other powers of enforcing payment of taxes that a council possesses, it may seize so much of the rentals payable by tenants of real property that is subject to the real property tax, business tax or water and sewage tax that may be needed to discharge the liability of the owners of that real property for the tax due by the owners to the council whether or not the taxes are in respect of the real property occupied by the tenants.

Role of the Clerk/Administrator

Section 148 of the *Municipalities Act, 1999* enables the clerk to serve on a tenant a written notice signed by the clerk requiring the tenant to pay his or her rent to the council instead of to the tenant's landlord and to credit against the indebtedness of the landlord to the council, payments made by tenants until the landlord's liability has been completely discharged.

In addition, real property tax, business tax, and water and sewage tax attach as a lien against the property on which it is imposed. The total of up to six year's unpaid taxes is deemed to rank in priority over other liens, encumbrances, or mortgages and can be collected by sale at auction of the property involved.

What the Legislation Says

Section 134 of the *Municipalities Act, 1999* states:
(1) Taxes fixed, established and imposed in respect of real property, including the real property tax, business tax, where the owner of the business is also the owner of the real property occupied by that business, and water and sewage tax, where the water and sewage system services the real property owned by the person who is taxed for that service, together with interest owing on those taxes, constitute a lien upon that real property except where the real property is sold for tax arrears by the council.
(2) A lien under subsection (1) attaches on the date on which the relevant tax was due to the council and continues for a period of 6 years after that attachment or 6 years after the last payment on account of the tax or acknowledgement of the tax has been made or given to the council, whichever is later.
(3) A lien under this section ranks in priority over a grant, deed, lease or other conveyance and over a judgment, mortgage or other lien or encumbrance affecting the real property or the title to the real property to which the lien applies.
(4) Where proceedings are taken to enforce a lien imposed under this section, the lien shall continue in force until the completion of the proceedings or for 10 years, whichever is sooner.
(5) The registration of a grant, deed, lease or other conveyance or of a judgment, mortgage or other lien or encumbrance, whether it was before or after the time the lien attached, does not affect the priority of the lien.
(6) It shall not be necessary to register a lien imposed under this section in the Registry of Deeds established under the *Registration of Deeds Act.*

A property which is occupied as a full-time residence by the owner cannot be sold by a council for tax arrears as long as it is occupied by the owner.

What the Legislation Says

Section 135 of the *Municipalities Act, 1999* states:
Notwithstanding section 134, real property that is occupied for full time residential purposes by the owner shall not be sold for tax arrears by the council while it is occupied in that manner.

In the case of all tax arrears, council may also disconnect the water, sewer or other service to the property involved.

What the Legislation Says

Section 132 of the *Municipalities Act, 1999* states:
(1) Where a tax, fee, levy, assessment, fine or other charge imposed by a council is in arrears, in addition to other remedies that a council has to enforce payment, a council may disconnect the service of a water system, sewage system or water and sewage system provided to the person who owes the tax, fee, levy, assessment, fine or charge to the council.

Grants

Municipalities avail of grants from the Federal and Provincial government to undertake capital, operating and other programs such as municipal capital works, recreation, economic development and youth programming. These programs and their eligibility criteria change over time and a list of current programs and supports becomes outdated within several years.

Section 9 provides a detailed summary of potential supports along with key linkages to relevant departments, agencies and organizations that individual councils can reference to stay up to date on current supports.

Borrowing

Council may borrow money for current and capital accounts. Current account borrowing is normally repaid within the year it was borrowed and should not exceed 20% of revenue from taxes, fees and grants. Ministerial approval is required to exceed the 20% requirement or to extend the term of the borrowing beyond the fiscal year in which it was borrowed.

What the Legislation Says

Section 93 of the *Municipalities Act, 1999* states:
(1) A council may borrow sums of money for current account purposes.
(3) The indebtedness of a council incurred as a result of borrowing an amount under subsection (1) shall not exceed 20% of its estimated tax yield, grants-in-lieu and other assured revenue, other than water and sewage subsidies paid by the province to the council, in the financial year in which the borrowing takes place.
(4) All amounts borrowed under subsection (1) shall be repaid before the end of the fiscal year in which the borrowing takes place.
(5) Notwithstanding subsections (3) and (4), a council may, with the prior written approval of the minister,
  (a) borrow money for current account purposes in an amount which is greater than 20% of its estimated tax yield, grants-in-lieu and other assured revenue; and
  (b) finance the repayment of money borrowed under this subsection and subsection (3) beyond the year in which it is borrowed.

Council can borrow for capital expenditure but the money is only to be for the purposes for which it was borrowed. Ministerial approval is required to use capital loans for other than stated purposes.

What the Legislation Says

Section 94 of the *Municipalities Act, 1999* states:
(1) Subject to the prior written approval of the minister, a council may
(a) borrow money for capital purposes and issue securities for the repayment of money borrowed;

Section 96 of the *Municipalities Act, 1999* states:
(1) Where, without the prior approval of the minister, a council uses money borrowed under section 94 for a purpose other than the purpose for which the minister approved the raising of the loan, the councillors who voted for the use of the money are personally, jointly and individually, liable for the restoration of that money to the council, and the council or the Crown may recover the money as a civil debt due to the council.

6.5 Expenditures

The estimate of expenditures for the next fiscal year is normally prepared by a town manager or clerk in consultation with other staff and council. Some councils also maintain a finance committee. The forecast expenditures are calculated through a combination of the current and previous year's expenditure patterns, proposed changes in the service levels, and proposed cost-cutting measures. Council may wish to consider two or three alternative budgets, each based on a different service levels. The categories below are those under which municipal government expenditures are organized.

Types of Expenditure

Expenditure	Rationale
General Government	Expenses which are of a general nature. The salaries and benefits of the town manager, town clerk, and general office employees would be included here; as would be expenses for office supplies, stationery, and the maintenance of office equipment. Also, included under this heading would be funds for the remuneration of councillors and payment of their expenses incurred on council business.
Protective Services	Costs of fire protection, animal and pest control, and any costs associated with police protection and municipal enforcement.
Transportation Services	Costs associated with maintenance of roads, sidewalks and bridges, snow removal, street lighting, and public transit.
Environmental Health	The costs of water supply, sewage collection and disposal, garbage and waste collection and disposal, and any other environmental health services.
Planning and Development	The costs of planning and zoning, community improvement and development, and tourism and marketing are included here.
Recreation and Cultural Services	The gross costs of operating any municipal owned recreation facilities, such as a stadium, swimming pool, community centre, or ball park, would be entered in this section along with contributions toward museums and libraries. Any revenue from such operations would be entered on the revenue side of the budget. Also, included in this section would be the municipality's contribution to recreation facilities operated by private groups or service clubs.
Fiscal Services	The total amount of debt charges for the coming year. Since most capital works are paid for through long term financing, this cost includes both the capital cost of the work plus the yearly interest on the debt.
	The term "debt charges" refers to a yearly amount which covers repayment of a portion of the capital together with interest charges. Since the province's share of debt charges is entered on the revenue side of the budget, the net effect is that only the municipality's share is taken into account in calculation of the taxes to be raised.
	It should be noted that municipalities may borrow for their share of a cost-shared project, such as firefighting equipment or waste disposal facilities, providing their bank is agreeable. Similarly, municipalities may borrow funds from their bank for the purchase of vehicles and construction equipment. However, all long term borrowing must be approved by the Minister.
	Also included in this section would be any capital expenditures out of current revenue, provisions for uncollectible taxes, any deficits of previous years, interest on short-term borrowings, and bank service charges.

6.6 Requirement for Financial Statements and Annual Audit

Financial Statements

Council is required to prepare an annual financial statement.

What the Legislation Says

Section 86 of the *Municipalities Act, 1999* states:
(1) A council shall prepare and adopt, before June 1 of each year, financial statements in a manner consistent with generally accepted accounting principles established periodically by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants.

Role of the Clerk/Administrator

Section 86(2) of the *Municipalities Act, 1999* requires that the mayor or chairperson and the treasurer or Clerk where there is no treasurer, to sign the financial statement and attach a report that an auditor has made with respect to the financial statement.

Audits

Council is required to prepare annual, audited financial statements.

What the Legislation Says

Section 87 of the *Municipalities Act, 1999* states:
(1) A council shall appoint an auditor before August 1 in the year preceding the year in which the audit is required to be reported on under section 92 to audit the accounts of the council and report on the financial statement prepared by the council.

Public Sector Accounting Board (PSAB)

The PSAB is an independent body with the authority to set accounting standards for the public sector, which includes municipalities. As outlined above, financial statements and associated audits must comply with PSAB standards. If assistance is required, the Department of Municipal Affairs and Environment is available to answer questions at 1 877 729 4393.

Best Practice

Effective January 1, 2009, new PSAB standards came into effect requiring local governments record their Tangible Capital Assets (TCA) on the statement of financial position (i.e. balance sheet) and amortize them over their useful life.

6.7 Procurement

Adherence to *Public Tender Act*

Consistent with the principles of sound financial management, council should strive to identify savings and to operate efficiently and maintain transparency in their procurement practices. Towns are required to follow the *Public Tender Act* in the procurement of goods and services.

What the Legislation Says

Section 214 of the *Municipalities Act, 1999* states:
The execution of public works, the acquisition of goods or services and the leasing of space by a council shall be in accordance with the *Public Tender Act* and in this section, "public works" and "goods or services" have the same meaning as in that Act.

Requirements for Tender

A tender is required when the value of the good or service exceeds $10,000 or that of public works exceeds $20,000. However, a number of exemptions are possible depending on the nature of the goods and services procured, the suppliers available, the capacity of the town to carry out the work on its own, and the urgency of the goods and services required. Councils are advised to seek clarification on its obligations under the *Public Tender Act* by contacting the Government Purchasing Agency at 709 729 3348 or their legal counsel.

Absence of Bids

In certain instances, a tender call (or second tender call) may not result in responding bids and in such cases, the municipality may execute the public work or goods and services required.

What the Legislation Says

Section 9.1 of the *Public Tender Act* states:
(1) Where no bids are received following a public tender call, the head of the government funded body shall issue a 2nd public call for bids unless the delay resulting from inviting tenders a 2nd time would be injurious to the public interest, in which case the head of the government funded body may execute the public work or acquire the goods or services or lease the leased space in accordance with paragraphs 9(a) and (b).
(2) Where no bids are received following 2 successive public tender calls, the head of the government funded body may execute the public work or acquire the goods or services or lease the leased space in accordance with paragraphs 9(a) and (b).

Opening Tenders in Public

Consistent with transparency, the tender processes shall include a time and location for the public opening of bids.

What the Legislation Says

Section 11 of the *Public Tender Act* states:
Tenders for public works, goods or services and leases called under this Act shall be opened in public at the prescribed time and place.

6.8 Disposal of Assets

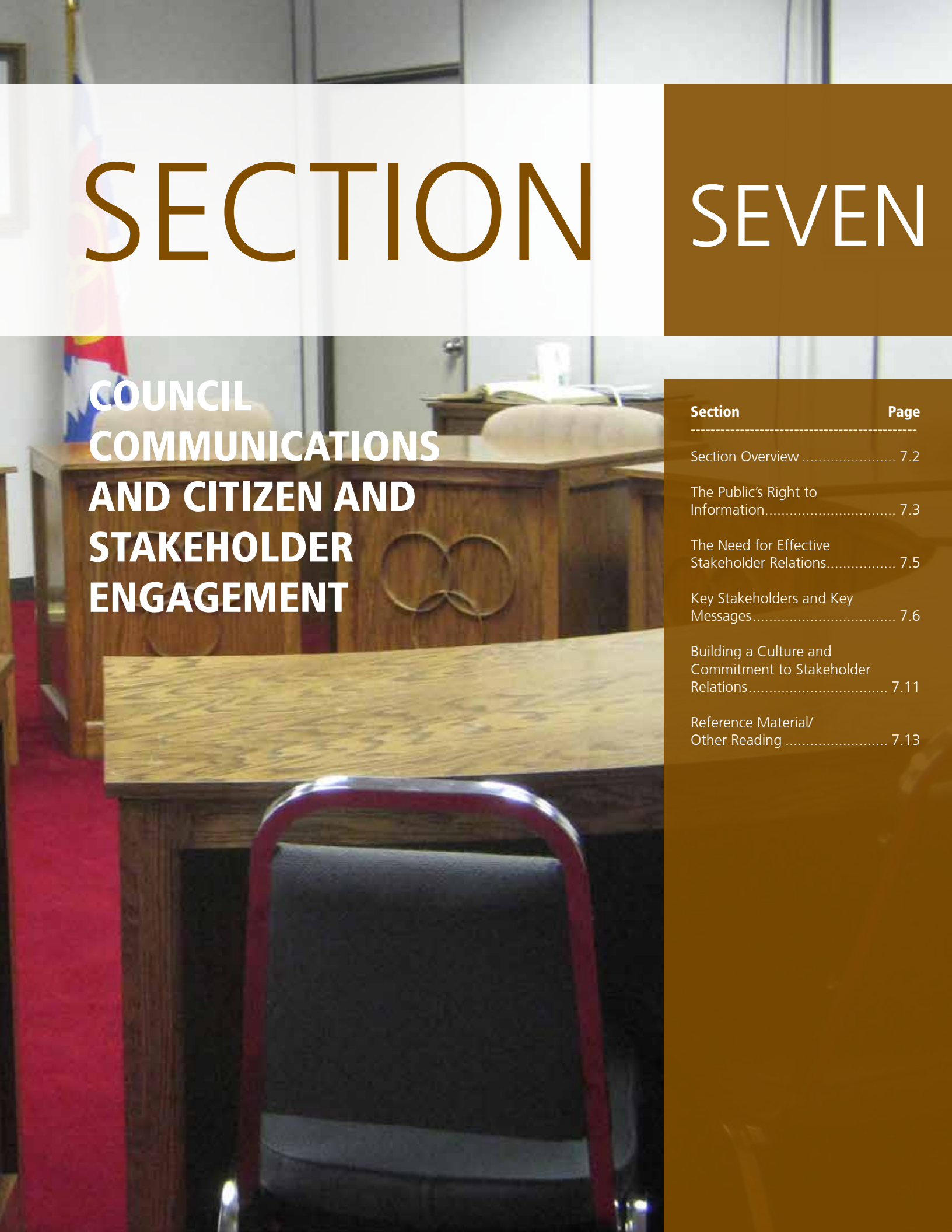
From time to time, councils may accumulate and acquire assets such as land, buildings, equipment, furnishings and supplies that are surplus to their requirements and which may be sold or possibly exchanged for goods and services for the town.

What the Legislation Says

Section 201.1 of the *Municipalities Act, 1999* states:
A council may, by resolution, sell real and personal property where
(a) the item or lot has a probable market value of more than $500, by public tender or public auction advertised in not fewer than 2 conspicuous places in the municipality and published in a newspaper having general circulation in the municipality, where there is one; and
(b) the item or lot has a probable market value of less than $500, or where a public tender or public auction under paragraph (a) did not produce a purchaser, by private sale.

Reference Material/Other Reading

Municipal Budget Submission Form *http://www.mae.gov.nl.ca/forms/mbs_form.pdf*



SECTION SEVEN

COUNCIL COMMUNICATIONS AND CITIZEN AND STAKEHOLDER ENGAGEMENT

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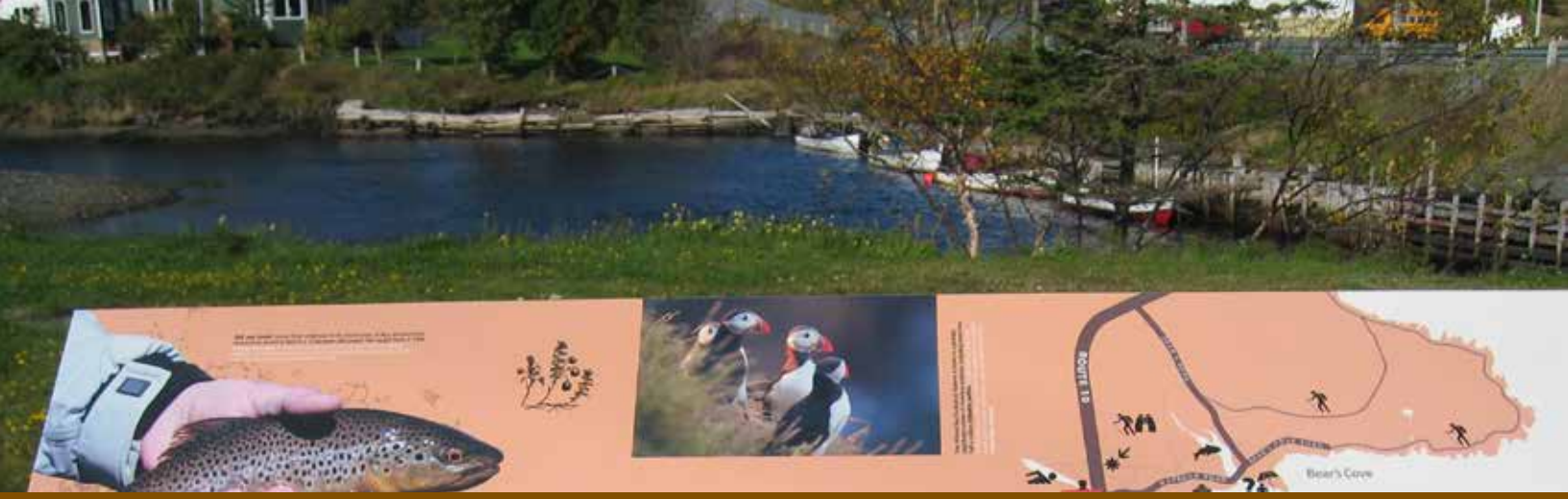

Council Communications and Citizen and Stakeholder Engagement

7.1 Section Overview

This section provides insight into how councils support accountability, transparency and communications with residents, staff, community organizations and businesses, government, media, and regional partners. Effective communications and citizen and stakeholder engagement enriches the community, leads to active and engaged citizens in the democratic process; and productive partnerships that strengthen community sustainability.

Objectives

After completing this section you will understand the following:

- *Council's obligation to provide accountability and transparency and the public's right to information*
- *Council's obligation to collect citizen input on development and planning issues*
- *How to identify key stakeholders*
- *How to develop meaningful strategies to ensure stakeholders are engaged*
- *How to evaluate stakeholder engagement strategies to ensure effectiveness*
- *How to build an organizational culture and commitment to effective stakeholder relations*

Key Terms	
Civic engagement	Individual and collective actions designed to identify and address issues of public concern.
Stakeholder	One who is involved in or affected by a course of action.

7.2 The Public's Right to Information

Legislative Provisions for Public Access to Information

The *Municipalities Act, 1999* provides a degree of openness in relation to council's decision-making processes and allows for public engagement through attendance at public meetings and as well, access to documents presented, reviewed and discussed at council. Even the minutes and decisions of privileged meetings must be adopted in a public meeting.

What the Legislation Says

Section 213 of the *Municipalities Act, 1999* states:
(1) A meeting of a council shall be open to the public unless it is held as a privileged meeting or declared by vote of the councillors present at the meeting to be a privileged meeting.
(3) A decision of the council made at a privileged meeting shall not be valid until that decision has been ratified by a vote of the councillors at a public meeting.

Section 215 of the *Municipalities Act, 1999* states:
(1) The following documents shall be made available by the council for public inspection during the normal business hours of the council:
(a) adopted minutes of the council;
(b) assessment rolls;
(c) regulations;
(d) municipal plans;
(e) opened public tenders;
(f) financial statements;
(g) auditor's reports;
(h) adopted budgets;
(i) contracts;
(j) orders;
(k) permits; and
(m) all other documents tabled or adopted by council at a public meeting.

Mandatory public engagement and awareness extends to other aspects of council business. The process of enacting a regulation under the *Municipalities Act, 1999* includes notifying the public of the regulation along with the consequences of a breach of the regulations. Depending on the municipality and the nature of land use zoning and controls within a municipal plan, council is generally required to notify residents of possible variances of land use and discretionary use proposed for development. For those municipalities preparing a municipal plan or reviewing or amending an existing plan, an open and public consultation process is a fundamental step identified within the *Urban and Rural Planning Act* (see Section 5.8). Councils are required to follow the *Public Tender Act* when procuring goods and services (see Section 6.7).

Access to Information and Protection of Privacy Act

Municipalities are defined as a public body within the *Access to Information and Protection of Privacy Act (ATIPP)*.

What the Legislation Says

Section 2 of the *Access to Information and Protection of Privacy Act* includes municipalities as a local government body:

(j) "local government body" means
  (i) the City of Corner Brook,
  (ii) the City of Mount Pearl,
  (iii) the City of St. John's
  (iv) a municipality as defined in the *Municipalities Act, 1999*, and
  (v) a body designated as a local government body in the regulations made under section 73;

The *Act* is intended to enhance openness and accountability in public bodies, provides the public the right of access to records, and defines limited exceptions. An additional aspect of the *Act* is that it prevents the unauthorized collection, use and disclosure of personal information. The *Act* requires the designation of a head in the case of a local public body and a coordinator for the purposes of administering the *Act* within the public body.

What the Legislation Says

Sections 66 and 67 of the *Access to Information and Protection of Privacy Act* states:

66. A local public body shall, by by-law, resolution or other instrument, designate a person or group of persons as the head of the local public body for the purpose of this Act, and once designated, the local public body shall advise the minister responsible for this Act of the designation.

67. (1) The head of a public body shall designate a person on the staff of the public body to
  (a) receive and process requests made under this Act;
  (b) co-ordinate responses to requests for approval by the head of the public body;
  (c) educate staff of the public body about the applicable provisions of this Act;
  (d) track requests made under this Act and the outcome of the request; and
  (e) prepare statistical reports on requests for the head of the public body.
  (2) The head of a public body may delegate to a person on the staff of the public body a duty or power of the head under this Act.

Councils often designate, under Section 67 of the *Act*, the clerk as the information coordinator.

Role of Clerk/Administrator

Councils may appoint a staff person, often the clerk, as the coordinator with responsibilities for administering the Act within the municipality.

Role of ATIPP Coordinator

The ATIPP coordinator is responsible for:

- Processing access requests
- Gathering and vetting records for release
- Educating staff and councillors on access and privacy policy
- Collaborating with ATIPP Office, and the Office of the Information and Privacy Commissioner (OIPC)

Access to Information Policy

Councils are encouraged to develop an access to information policy consistent with the *Access to Information and Protection of Privacy Act*. Provisions within the *Municipalities Act, 1999* already define documents to be provided (see above) and allow councils to set conditions around fees and utilization of staff to satisfy access to information requests.

What the Legislation Says

Section 215 of the *Municipalities Act, 1999* states:
(2) A person making an inspection under subsection (1)
(a) shall not remove the document from the place where it is located or interfere with an employee of the council in the performance of his or her duties; and
(b) may make extracts from the documents, and may, where the council has copying equipment, have a copy made of the documents upon payment of a fee equal to the actual cost of providing that copy.

Requesting Copies of Minutes of Most Recent Council Meeting

One of the most frequent requests for information relates to minutes of council, particularly the minutes arising from a recent meeting during which a decision of interest to a particular resident was made. Media representatives may ask for a copy of the minutes of a council meeting, particularly if they have been unable to attend the public meeting in person. These requests provide a challenge in that the minutes of a council are not the official record until adopted by resolution at a subsequent meeting which may not be scheduled for some time, up to a month.

The necessity of conveying the decisions of council to residents and others in a clear and articulate way and within a reasonable time was considered above. However, councils are not obliged to provide residents with documents such as draft minutes that are not presented at council consistent with Section 215 of the *Municipalities Act, 1999* (see Section 4.5 above). Council may inform interested residents and others on decisions on particular issues but it is not obliged to provide an immediate summary to those requesting one.

7.3 The Need for Effective Stakeholder Relations

Municipal governments do not depend on consumer demand or satisfaction to survive. Individual councillors may not be re-elected due to a loss of voter confidence but the municipal corporation continues unless the municipality is unincorporated. While a municipality may survive as a corporate entity, increasingly the success and sustainability of a community depends on developing and maintaining effective relationships with key stakeholders inside and outside the town. Despite the relatively high level of openness provided in legislation, adopting the minimum standard is not *effective* stakeholder engagement. Recognizing this, many towns attempt to identify and understand their stakeholders and to develop effective stakeholder relation strategies.

Oxford Dictionary defines a **stakeholder** as:
A person with an interest or concern in something, especially a business.

For municipalities, this definition applies to every individual, group, organization, interest or segment of society a council's actions might impact. These are the stakeholders upon whom the municipality's success depends, to maintain a stable population and a vibrant business community, to sustain a reasonable tax base, to foster collaborative regional partners, to provide cost effective service delivery, and to ensure government support for the strategic priorities of the town.

Effective stakeholder relations are the glue which binds council to citizens, organizations and the interests they represent. The fundamentals of effective stakeholder relations include:

- Identifying key stakeholders and why you need to engage them
- Identifying the key messages
- Determining the best way to communicate with stakeholders and
- Evaluating your activities to determine if they are effective

General Communications Activities	X
Develop town logo for use in all promotional activities	
Develop town brand	
Develop town website	
Develop social media strategy and use media such as Facebook and Twitter	
Design and obtain a Chain of Office for ceremonial functions	
Develop, consistent with the *Access to Information and Privacy Act,* an access to information policy and appoint a coordinator (see Section 7.2)	
Establish Communications/Stakeholder Engagement Sub-committee of council to develop and oversee stakeholder relations activities	
Consider role of councillor in soliciting input	
Consider clerk/staff role as primary point of contact and feedback loop to council	

7.4 Key Stakeholders and Key Messages

Recognizing a municipality's key stakeholders is a critical step in developing effective strategies to foster and strengthen engagement. Depending on the group, different messages and underlying communications objectives may guide stakeholder engagement frequency and approach. All councils should strive to improve their relations with the community and to increase public support and awareness of the council and its activities.

Residents and Taxpayers

A town's residents rank as a priority stakeholder group. They need to be confident town affairs are conducted properly, information on town business and activities is being provided and available and that the municipal leadership is providing good decision making on their behalf. A council with legitimacy in the eyes of its citizens and which is perceived to be doing the best it can has the support of residents, and this support is translated into a positive attitude regarding the town's strategic direction, development priorities and is reflected in the payment of taxes and fees. This positive attitude encourages **civic engagement** and promotes the interest citizens take in their community; this most often shows in election turnouts.

Such support does not come naturally - it is earned and fostered. To reinforce the importance of local government and to develop citizen attachment to the community and its government, key messages in relation to openness, transparency and citizen engagement are critical. By following proper tendering procedures, by dealing with controversial matters in open council meetings, by avoiding conflict of interest situations, and by ensuring all council business is above board, citizens are less likely to suggest spurious motives to council. Council must also appear to be fair-minded where the process for making decisions is fair and known to all citizens. Council must reinforce the message that the opinions of its residents are valued and provide meaningful opportunities for sharing information and garnering citizen input.

Communications Activities for Residents/Tax Payers	X
Identify and publicize regular date and time of council meetings	
Establish and promote guidelines for public conduct at council meetings	
Establish and promote deadlines for additions to the agenda, i.e. development applications etc.	
Establish and promote guidelines for delegations to council	
Encourage residents to pay taxes in person, rather than by mail; welcome when they visit the town office	
Ensure citizen complaints and enquiries are dealt with courteously and promptly; and if nothing can be done about a problem, ensure a complete explanation is provided	
Post agenda online and on public bulletin board (see below)	
Post adopted minutes online	
Develop newsletter template and issue a regular newsletter, i.e. quarterly	
Erect a community bulletin board	
Establish an electronic notice board	
Maintain community events calendar on website	
Engage in annual activities such as Volunteer Appreciation Week, Municipal Awareness Month, and Fire Prevention Week	
Survey residents to establish baseline opinions and attitudes toward council and its strategic priorities	
Have contests for naming new or unnamed streets and public buildings	
Celebrate religious and secular holidays in cooperation with local churches and service clubs	
Sponsor career days in cooperation with local schools	
Hold "open houses" of the municipal buildings and facilities	
Adopt a charitable giving policy including contribution limits, potential activities supports, including an application and assessment process	

Segments of Residents within the Town

A town's general population comprises different segments with particular interests in their relations with council. As a separate class of taxpayers, businesses have a particular interest in commercial and business tax rates, disposal of commercial waste or fire and life safety inspections for commercial properties. Seniors are interested in security of property. Young families have an interest in recreation facilities and programs. The list of varied interests goes on and on. To the extent that each of these have an interest in a particular policy, issue or need, they have a role to play in providing input into council's strategic agenda. Effective stakeholder relations provide the means where these needs are articulated, communicated and considered.

Acknowledging certain segments within a community with particular interests and providing a means of communicating and engaging them is critical. This enables council to gain a unique perspective on the most important matters to those residents, demonstrates council is open to input and wishes to engage them. Key messages here acknowledge that there are many perspectives within the town and council values a diversity of viewpoints.

Communications Activities for Segments of Residents within the Town	X
Accept invitations to social events and other activities from community groups and organizations	
Declare municipal awareness days for relevant activities	
Hold citizen roundtables and forums	
Appoint council liaison to significant community organizations i.e. heritage committee, harbor authority etc.	
Allow community organizations to post activities on community events calendar on website and provide space within newsletter for community groups and organizations	
Establish annual volunteer recognition awards/ceremony	

Staff

Depending on the size of the town, stakeholder relations with staff may be informal, such as a periodic chat with the clerk or town manager or, in large municipalities, an internal newsletter and other opportunities for staff engagement.

Role of the Clerk/Administrator

Council staff is a critical element of the municipality, often having day to day interaction with residents, business and other stakeholders. Their engagement is important, not only as agents of the town in outward messaging and activities but also as a separate stakeholder with a vested interest in council's success.

Key messages and communications objectives for staff reinforce their fundamental role as the day to day face of council and the significant work they do on behalf of the town and its residents.

Communications Activities for Staff	X
Ensure that staff roles and responsibilities are clear	
Provide staff with opportunities for professional development and identify priority areas of importance to the town and of interest to staff	
Engage staff in decision-making processes of council	
Depending on size, develop an internal staff newsletter	
Hold annual staff appreciation activities	
Appoint key council committee/liaison for staff relations i.e. finance, administration or human resources committee	

Effective Government Relations

Establishing and maintaining effective relationships with other levels of government is critical. Many of council's strategic objectives are met through involvement and investment from the other orders of government. Government, elected representatives and departmental officials, are key partners in municipal growth and development. They need assurance council is a willing and competent partner, that its conduct and approach to governance is above reproach, and its strategic priorities are well considered and enjoy the support of residents. It is important to establish effective relationships with elected federal and provincial representatives from your area. They advocate on behalf of municipalities generally and your municipality when asked and every effort should be made to keep them engaged and up to date on your municipality's priorities and activities.

Understanding the current policy and program framework and maintaining contact with key departmental representatives keeps council informed of opportunities for further investment. A fundamental partner is the Department of Municipal Affairs and Environment, which is responsible for much of the legislative, regulatory and development framework of local government. The department supports building strong and sustainable communities and in building capacity among councillors and staff.

Role of the Clerk/Administrator

Council staff should develop strong c ontacts with key departments and agencies, particularly within the Department of Municipal Affairs and Environment.

Communications Activities for Effective Government Relations	X
Ensure elected officials are aware of proposals developed by the town or undertaken by other groups in the town that council supports	
Hold periodic meetings with elected officials to review town priorities	
Maintain effective relationships and contacts with government officials in agencies and departments, particularly the Department of Municipal Affairs and Environment	
Seek input from officials when considering development activities and funding from departments and agencies	
Publically recognize the role played by elected representatives, officials and departments and agencies	

Other Regional Partners

Increasingly, regional cooperation is an important facet of local service delivery. The province's waste management strategy, collaborative Integrated Community Sustainability Plan (ICSPs) and the *Regional Service Boards Act* are three recent examples. Increasingly, community sustainability becomes more dependent on innovative and collaborative regions and regional economies of scale in services delivery.

Longstanding arrangements exist in relation to fire protection, waste management, recreation and water. Successful communities in the future will have to build on this record of cooperation to identify new opportunities for even greater services integration. Regional collaboration is successful when partners know and trust one another, build on past effort, and develop meaningful and effective governance models to provide oversight on shared approaches. Key messages on the value of partnership and regional engagement that recognize the unique circumstances of other players contribute to effective regional stakeholder relations.

Communications Activities for other Regional Partners	X
Participate in regional joint mayor/joint council forums and other regional initiatives and appoint a councillor to represent the town	
Fulfill obligations to joint and shared service committees and Regional Service Boards and appoint a councillor to represent the town	
Take memberships in regional organizations such as Chambers of Commerce and Tourism Associations	

Municipal Organizations

Active engagement in regional joint councils and joint mayors' forums, membership in Municipalities Newfoundland and Labrador and the Combined Councils of Labrador and in the Federation of Canadian Municipalities allows your town's voice to be heard. The benefits of speaking with a collective voice, engaging in collaborative learning, taking advantage of professional development opportunities, and sharing of best practices all strengthen overall municipal governance and administration. Reinforcing the value of these partnerships sends a message that your town is open to collaboration and is committed to continuous improvement.

Role of the Clerk/Administrator

For municipal staff and administrators, active engagement in the Professional Municipal Administrators affords countless opportunities for professional development and sharing of best practices to benefit your community.

Communications Activities for Municipal Organizations	X
Attend annual and semi-annual meetings of MNL, including regional forums and the Municipal Symposium	
Attend annual meetings of the CCL	
Encourage staff to attend annual meetings of the PMA and to participate in relevant training as required	
Participate in periodic surveys, focus groups and other activities of municipal organizations – provide your input whenever the opportunity presents itself	

Media

Too often towns treat the media as simply another means by which to communicate, not as a separate stakeholder with its own set of needs, expectations and requirements. For many rural areas in the province, media is limited to the local or regional community newspaper. Effective stakeholder relations with the media involves advertising with them and getting your messages to them in the clearest way possible. Extending a welcome to attend public meetings of council and being available to comment on issues are ways to reinforce this relationship.

Engaging the media reinforces the perception of openness and transparency, allows council to trumpet its successes, and get its perspective across on development issues and strategic priorities. Key messages to media reflect a welcoming attitude and a willingness to respond on issues facing the town.

Communications Activities for Media	X
Identify and publicize regular date and time of council meeting	
Establish and promote guidelines for media attendance/conduct at council meetings	
Provide media with key contact information of Mayor, Clerk and Town Manager (if in place)	
Allow time at conclusion of council meetings for media interviews and comments	
Identify overall media contact list and deadlines	
Maintain up to date rate cards for advertising and wherever possible, support local media through advertising	

7.5 Building a Culture and Commitment to Stakeholder Relations

Effective stakeholder relations require a commitment by council. They do not just happen, they must be planned. To have a lasting effect they are best advanced by an organizational culture that values the opinions and input of others, recognizes the importance of relationships and collaboration and provides resources and opportunities to facilitate stakeholder input and engagement.

A Commitment to Engagement

Identifying key stakeholders, communications goals, key messages, policies, protocols and activities represent an effective approach to stakeholder relations. Councils should develop an effective communications and stakeholder relations plan that addresses each of these key requirements and that identifies key roles and responsibilities in seeing that the strategy is carried out. The planning template below might be used to develop effective stakeholder relations plans for each stakeholder group.

Stakeholder Relations Planning

Step 1	*Identify stakeholder group*	Name of stakeholder group
Step 2	*Identify communications goal*	Why do we need to engage this stakeholder group?
Step 3	*Identify key messages*	What do we want to say to this group and what do we want them to say to us?
Step 4	*Identify strategies and activities*	How will we engage this stakeholder group? What activities and initiatives do we need to develop/enhance?
Step 5	*Identify resources*	Who will lead our activities – assign key roles and other resources (financial/ staff/council)?
Step 6	*Implement*	Undertake implementation and monitoring of activities
Step 7	*Evaluate*	Assess impact of strategies over time through surveys and other evaluation methods
Step 8	*Adjust plan as required*	Utilizing evaluation feedback, adjust plans by revisiting Steps 1-5

A Culture of Engagement

To foster a culture of engagement, council should always reflect an understanding of the impact of its decisions on its stakeholders. In effect, councils should apply a stakeholder engagement lens to its decision-making process.

This approach should not be confused with council bowing to public opinion on every single thing it does. Councils are elected to lead and make balanced decisions on behalf of their residents. Rather, it is an acknowledgement that decisions of council impact residents and other interests within and beyond the town. Stakeholder input on the front end may make for a more informed decision of council while taking an opportunity to explain the impact of decisions at the back end provides stakeholders with an opportunity to understand council's rationale.

Example
A town council is upgrading a road. The work will impact the driveways and fences of several property owners. The engineering designs are in draft form. Should council consult with impacted residents and let them know that work is being planned?

Scenario 1

Councillor Smith, in moving a motion to proceed with the tender on the basis of the draft engineering design reminds council that:

"Council has a road easement there and Mr. Jones (property owner) should know that he has no business putting a fence there and we can remove it if we want. I move that we proceed with the tender and not bother consulting with property owners."

The motion is seconded and passed and the resolution of council is to proceed with the work on the basis of the draft engineering documents without informing residents. The tender is awarded and on the morning construction starts, Mr. Jones blocks the equipment and places an angry call to the town clerk.

Scenario 2

Councillor Black, in speaking against Councillor Smith's motion, says "How would you feel if someone suddenly showed up at the end of your driveway and pulled your fence down without anyone letting you know what was going on. I'll be voting against this motion."

Councillor Smith's motion is defeated and Councillor Black proposes another motion that Council consults with impacted property owners before finalizing the engineering design and proceeding to tender. The motion is seconded and passed and the resolution of council is to arrange a briefing between the engineer, the town's public works committee and impacted property owners. The meeting is held, questions are asked, the engineer makes several adjustments to the design that satisfies the concerns of Mr. Jones, the tender is awarded and construction starts, without incident.

To further a culture of engagement, council can undertake initiatives that reinforce the commitment to information sharing. Internally, council should establish clear requirements for the recording of information at the committee level and the reporting obligations of councillors and staff from committees and external organizations. Council decisions should always be clearly articulated and accurately transmitted to residents and other stakeholders.

Project Activities

In undertaking a significant project, council should apply the stakeholder relations planning process to prepare a project-specific communications plan for those activities. Stakeholder relations and communications planning is a critical part of effective project management (see Section 8.5 below). In the example above, following this process would have identified key stakeholders impacted by the construction, including property owners but also motorists and others using the road. Key goals would have been to inform them of the proposed work and identify and potentially mitigate any negative impacts. Key messages would have been roadwork will be ongoing and to exercise caution in the area. Activities might have included a notice to residents of construction. Time spent on the front end in considering the impact of council's decision would have demonstrated that council values input and engagement rather than the situation in Scenario 1 above where an angry resident calls the Town Clerk after construction has begun.

Reference Material/Other Reading

Access to Information and Protection of Privacy Act, http://www.assembly.nl.ca/Legislation/sr/statutes/a01-2.htm

Communications Planning, Community Capacity Building Program, Department of Tourism, Culture, Industry and Innovation *http://www.tcii.gov.nl.ca/regionaldev/capacitybuilding.html*

Oxford Dictionary *https://en.oxforddictionaries.com/*

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SECTION EIGHT

COUNCIL AND GOOD GOVERNANCE

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Council and Good Governance

8.1 Section Overview

All of the best practices highlighted in Sections 2-7 relate to good governance that is grounded in a strategic vision for the municipality. This section provides a summary of emerging best practice in municipal governance, highlighting:

- The importance of long term strategic and sustainable development planning
- A commitment to quality management and continuous improvement
- Effective project management
- Identifying and managing organizational risk

Objectives

After completing this section you will understand the following:

- *The definition of and emerging emphasis on municipal good governance*
- *Strategic and sustainable development including economic development and capital budgeting*
- *Building a quality management culture*
- *Effective project planning and management*
- *Risk management, emergency and business continuity planning*

Key Terms	
Business Continuity Management (BCM)	A management system planned and implemented to reduce losses caused by an interruption or disruption to an organization's process, product or service where the continued interruption past a certain time is seen to be detrimental to the organization's survival.
Capital Investment Plan (CIP)	*A* mandatory requirement to qualify for supports under Gas Tax Fund (see below).
Continuous Improvement (CI)	An ongoing effort to improve the delivery of products, services, or processes.
Emergency Management Coordinator *(EMC)*	Person designated within a town or regional Emergency Management Plan with overall responsibility for implementing the town's Emergency Management Plan.
Emergency Management Plan *(EMP)*	A municipal or regional plan prepared under the *Emergency Services Act*.
Emergency Management Planning Committee (*EMPC)*	A committee, usually comprising councillors and staff, along with the Emergency Management Coordinator, with overall responsibility for developing a town or region's emergency management plan.
Fire and Emergency Services -Newfoundland and Labrador (*FES-NL)*	An agency of the Government of Newfoundland and Labrador tasked with the implementation of an emergency management strategy designed to develop and maintain a modern and robust emergency management system in the province, in collaboration with agency partners and stakeholders, in planning against, preparing for, responding to and recovering from emergencies, disasters and fires.
Gas Tax Fund (GTF)	A fund derived from a federal contribution of a portion of gas tax revenues to support municipal infrastructure and capacity building in relation to energy efficiency and reducing greenhouse gas emissions. The GTF is a Federal-Provincial Agreement signed with each province.
Good Governance	A term used in international development literature to describe how public institutions conduct public affairs and manage public resources.
Governance	The process of decision-making and the process by which decisions are implemented (or not implemented).
Integrated Community Sustainability Plan (*ICSP)*	A mandatory plan to address key areas of sustainability and is a requirement for each municipality to qualify for support under the GTF.
Project	A temporary endeavor undertaken to create a unique product or service.
Project Management	The allocation, tracking, and utilization of resources to achieve a particular objective within a specified period of time.
Quality Management System (QMS)	The organizational structure, procedures, processes and resources needed to implement quality management.
Risk	Anything that may enhance or impede an organization's ability to achieve its current or future objectives.
Risk Management	The proactive mechanisms by which you exploit and manage risk.
Strategic Planning	The process used to develop a plan for action and change within an organization or area.
Sustainable Development	Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

8.2 Good Governance in Municipalities

What is Good Governance?

Governance is the process of decision-making and the process by which decisions are implemented. The term *governance* recognizes policy development and implementation involves a range of interests beyond the formal institutions of *government*, the municipal council and council staff. **Good governance** is defined by **how** government conducts itself in the interplay with other interests and emphasizes:

- Values and ethics
- Effective council-staff relations
- Public engagement and opportunities for partnership
- Long term strategic and sustainability planning, identification of priorities and performance measurement
- Ongoing review of municipal service delivery and performance management
- Identifying and managing risk

8.3 Strategic and Sustainable Development Planning

A key component of good governance, **strategic planning** is a process used to develop a plan for action and change. At the community level, strategic planning allows residents and other stakeholders to participate in a process to develop community enhancement and improvement strategies. A strategic plan is based on a realistic assessment of resources and opportunities and includes ways to evaluate the plan's success or revision.

In the context of local government, strategic planning is often associated with economic development, however, the strategic planning process and its benefits can be applied to any municipal activity including recreation, heritage, transportation and infrastructure planning.

The Need for Effective Planning

A strategic plan should not be confused with a municipal plan. Even in municipalities with a municipal plan (see Section 5) there is often no guiding strategic vision reflected in the plan. While a municipal plan defines zoning and land use classification, for example, an area set aside for a residential sub-division, it does not guide how council might advance the initiative to attract a potential developer and identify potential infrastructure requirements the town might need to address.

Strategic planning allows a community to set long term goals and objectives and to establish action plans and priorities to achieve them. In the absence of a strategic plan, policy actions are not grounded in a strategic vision and can be undertaken with no clear sense of how the action will impact the future.

Benefits of Strategic Planning

Strategic planning has a number of benefits:

- Involves stakeholders in the planning exercise
- Clearly defines community vision
- Establishes realistic goals and objectives
- Identifies strategies with defined time frames within council's capacity for implementation
- Communicates those goals and objectives to stakeholders
- Develops a sense of plan ownership
- Ensures the most effective use of town resources by focusing on key priorities
- Provides a base from which progress can be measured and establishes a mechanism for informed change
- Provides clear focus, producing efficiency and effectiveness

Strategic Planning Process

The strategic planning process is a continuous cycle of analysis, visioning, action planning, budgeting, resource allocation, implementation, monitoring and revision.

The Planning Process

Steps in the Strategic Planning Process

Step		Activity
1	*Identify vision*	Describes community aspirations – what you are working towards?
2	*Select goals*	Goals are general statements about what you need to accomplish to meet your purpose, or mission, and address major issues facing the organization.
3	*Set objectives*	Specific approaches or strategies to reach each goal.
4	*Identify specific action plans*	Details specific activities for department or organization to ensure implementation. Develops work plans for committees or staff to achieve objectives. Details how objectives will be met.
5	*Implement plans*	Undertake implementation of action plans.
6	*Monitor and revise*	Identify ways to monitor and measure plan by establishing key indicators and build in update process.

Sustainable Development and Integrated Community Sustainability Plans (ICSPs)

Strategic planning implies long-term commitment and increasingly emphasizes principles of **sustainable development**. *Sustainable development* is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. For municipalities, a recent commitment to sustainable development planning is reflected in **Integrated Community Sustainability Plans (ICSPs)** required under the **Federal-Provincial Gas Tax Fund (GTF)**.

An ICSP is a long-term strategic plan that encompasses most aspects of municipal planning to realize sustainability objectives for a town's environment, culture, society, economy and governance. The first generation of ICSPs in Newfoundland and Labrador featured opportunities for regional cooperation through collaborative ICSPs with other municipalities along with an integrated approach to sustainability through municipal plan-based ICSPs.

Link between Strategic Planning and Capital Expenditure

Long term capital expenditure must be placed in a strategic context, whether in relation to community-based ICSPs or an infrastructure/capital plan. There is a need for effective strategic planning processes to identify infrastructure priorities and the resources required to achieve implementation.

As highlighted above in Section 6, councils are required to submit an annual five year forecast of its anticipated capital expenditure requirements.

What the Legislation Says

Section 94 of the *Municipalities Act. 1999* states:
(2) A council shall, before the end of each year, submit to the department a 5-year forecast of its anticipated capital expenditure requirements.

Similarly, the GTF requires municipalities to submit a **Capital Investment Plan (CIP).** The CIP is a multi-year plan that details the infrastructure projects a municipality proposes to complete in support of its ICSP. The CIP must be submitted by the municipality to the Department of Municipal Affairs-Gas Tax Secretariat for approval.

Economic Development Planning

Sustaining a population and maintaining a residential, property and commercial tax base is critical to the survival of a municipality and to its ability to deliver services. Municipalities have authority for economic development and many invest in economic development planning to expand their tax bases and to respond to challenges and changes in their traditional business and industry.

What the Legislation Says

Section 203 of the *Municipalities Act. 1999* states:
(1) A council may encourage economic development as it considers appropriate and for that purpose, may enter into an agreement with another municipality, local service district, agency, person or the government of the province.
(2) In this section, "economic development" means the continuation, expansion or establishment of a business or industry.

A well-considered economic development plan is an effective planning tool to guide a municipality across a range of activities including land use planning, infrastructure, tax policy, industry adjustment, business retention and expansion and investment attraction. A plan also helps council to lead economic development. Some towns have an economic development committee and have staff assigned for economic development. There are significant resources available through Municipalities Newfoundland and Labrador and others in relation to strategic economic development (see Section 9 - Municipal Financing and other Council Resources).

Section 8.4 Building a Quality Management Culture

Ongoing reviews of municipal service delivery and a commitment to performance management and continuous improvement is an element of good governance, helping to ensure efficiency and effectiveness. Increasingly, quality management principles are applied to municipal activities to promote consistency in programs, processes and services.

What is Quality Management?

Quality management (QM) expresses the organizational structure, procedures, processes and resources needed to implement quality management. The mandatory Rules of Procedure highlighted in Section 2 are one example of a quality management process.

A primary element of quality management is policies and procedures determined over time and applied consistently. A second element is being *proactive*, not *reactive*, through strategic approaches. A reactive approach focuses on how to explain what has just happened; a proactive approach allows council to be on top of what is happening and to plan and forecast for the future. A third element is change management and staying ahead of the curve. Many municipalities have a tendency to be complacent with a good status quo attitude. The drive for continuous improvement and new and innovative approaches is led by municipal leaders prepared to champion change.

Characteristics of Quality Management

Organizations can shape quality management to fit its particular circumstances and needs. Regardless of the structure adopted, quality management processes contain most of the following elements:

- Top-level support and commitment from council and senior management
- A customer/stakeholder driven orientation
- Employee involvement in productivity and quality improvement efforts
- Rewards for quality and productivity achievement
- Training in methods for improving productivity and quality
- Reducing barriers to productivity and quality improvement
- Meaningful quality measures, standards, policies and procedures
- Written vision or mission statements linked directly to team-established goals

Policies and Procedures

As outlined throughout the Handbook, councils are obliged to comply with relevant legislation and to enact mandatory regulations and procedures. An example is the adoption of Rules of Procedure for the conduct of council meetings. Many councils also adopt discretionary policies and procedures and these may include:

- Public conduct and delegations at council meetings
- Appointment of committees of council and appointments to external committees
- Human resource policy including Staff recruitment
- Job descriptions and associated performance evaluation processes Staff training and professional development policies
- Access to information and privacy policy in compliance with, and in addition to, relevant legislation
- Corporate giving/donations

Over time the majority of council business can be considered as a series of routine issues or transactions around which policies and procedures can be developed. Once council has identified how it will deal with an issue, a process or a procedure can be developed to manage future transactions of a similar nature.

Example

Mr. And Mrs. White have approached council requesting to be connected to the town's water line which is on the opposite side of the street in front of their house. The installation will require cutting the pavement and digging a trench for their household connection. Council is concerned that the road cut and the pavement be done and replaced to a certain specification and to ensure compliance, by resolution, council requires the Whites to follow guidance provided by the town's engineer and place a deposit with the town.

In effect, council has now established a new policy for all future road cuts that outlines the specifications, the amount of a deposit required and that might also include the role of staff in approving similar requests in the future without the necessity of bringing to a council meeting for approval.

Cumulatively, these decisions represent council policy and procedure. Effective quality management processes reflect these decisions within overall policies and procedures where:

- The process is defined, including associated application forms, criteria and instructions
- The expectations for residents and stakeholders are clear, for example specifications and fees
- The roles and responsibilities of staff are established, including levels of authority for approval and ensuring compliance

As outlined in Section 4.4, the clerk has a particular responsibility to record the decisions of council and to maintain council records.

Role of the Clerk/Administrator

Section 61(1) of the *Municipalities Act, 1999* states:
A clerk is the secretary to the council and is responsible to it for recording the proceedings and decisions of the council and for the safekeeping of all documents of the council.

In the development of a more formal record of policies and procedures however, it may be advisable for council to assign responsibility for overseeing the drafting of policy to relevant sub-committees (i.e. Public Works) and engage other staff as required.

Continuous Improvement

Continuous improvement is an ongoing effort to improve the delivery of products, services, or processes. These efforts can seek "incremental" improvement over time or "breakthrough" improvement all at once. Delivery processes are constantly evaluated and improved in the light of their efficiency, effectiveness and flexibility.

Just as councils with a municipal plan are required to carry out a plan review after five years, policies, processes and operating procedures need to be reviewed in an ongoing way to ensure their effectiveness and relevance to current conditions or circumstances. Periodic reviews of and evaluation of council policy is a fundamental part of the quality management process and consistent with the principles of good governance.

Councils may set review protocols and timelines within individual policies or alternatively, carry out period reviews of council's entire policies and procedures at one time. Many councils have undertaken reviews focusing on council operations, committee structures and so on or have assessed the overall roles and

responsibilities of staff as a part of a possible position reclassification or realignment of departmental functions. All of these represent examples of a continuous improvement process at work.

8.5 Effective Project Management

Councils undertake many activities and regardless of the size or scale many of the activities can be defined as projects. A **project** is a temporary endeavor or activity undertaken to create a unique product or service or achieve a pre-determined outcome.

Project Management

Project management is the allocation, tracking, and utilization of resources to achieve a particular objective within a specified period of time. Often, a project management function is delegated to an external consultant, such as the town engineer in the case of municipal capital works. Whether or not an external project manager is in place, an understanding of effective project management is required for municipal councillors and staff. In fact, for those municipalities undertaking significant infrastructure projects on a self-managed basis, a project management plan is often a mandatory requirement for funding.

Why Project Management?

At present, project management is used all over the world, applied across all industry sectors and all disciplines. Project management is now seen as a profession and its use is growing. There are many reasons for its growth in popularity such as:

- It has proven successful, leading to better project outcomes
- Increased organizational efficiency and resource utilization
- Investors, lenders, and funding organizations seeking evidence of project management capabilities
- Limited resources at the municipal level results in staff and councillors acting as project manager

Characteristics of Project Management

Good project management skills are essential for the effective implementation of initiatives. It ensures projects are completed on time, on budget, to the required standards, with all the required elements. Characteristics of project management can be applied to projects of any size.

Characteristics of Project Management	
Project name	All projects should have a name to assist in communication and record keeping.
Project objectives	The objectives of the project must be well defined.
Project team	A good team with a mix of skills, knowledge, and abilities is required.
Project budget	The project needs a budget.
Project timeline	The project needs a time line.
Project plan	All projects require a plan. It can be high level but it must communicate what work is to be done, who will do it, who will be consulted, who is informed of project progress, etc.
Project implementation and monitoring	Project progress must be tracked and corrective action taken as required.
Project records	Project records must be kept and organized so that information can be retrieved and used at a later late. "Lessons Learned" must also be noted so best practices can be used on future projects.

Inclusion and Communicating with Project Stakeholders

Project stakeholders are individuals and organizations who are involved in the project or whose interests may be positively or negatively affected as a result of successful project. As outlined in Section 7.5, effective stakeholder relations activities must often be considered, even at the project level, and the stakeholder relations planning template is a good way to identify and engage stakeholders within a project management process.

8.6 Emergency, Risk and Business Continuity Management

Anticipating and planning for the future are key aspects of good governance. An increasing expectation of good governance is to identify, assess and mitigate threats that may impact the organization. In a municipal context this includes identifying threats arising from the failure of critical infrastructure and services or external threats from natural and other disasters. Collectively, these are known as emergency, risk and business continuity management.

Emergency Management

The Requirement for Emergency Management Planning

By May 10, 2012 Newfoundland and Labrador municipalities, were required, by the *Emergency Services Act, 2008,* to adopt a community-based or regional **Emergency Management Plan (EMP)**.

What the Legislation Says

On municipal EMPs

Section 5 of the *Emergency Services Act* states:
(1) The councils of every municipality shall, within 3 years of this Act having come into force, adopt an emergency management plan.

On regional EMPs

Section 7 of the *Emergency Services Act* states:
(1) Two or more councils may join together to form a regional emergency management committee for the purpose of developing a regional emergency management plan.
(2) A regional emergency management plan shall be approved by the director before a council adopts the plan and the requirements of section 5 apply as if the plan had been made by a council alone.

In addition, the *Municipalities Act, 1999* allows council to declare a state of emergency and issue orders to support an effective emergency response.

What the Legislation Says

Section 204 of the *Municipalities Act, 1999* states:
Where, in the opinion of a council, chairperson or mayor, an emergency exists because of
(a) a disaster;
(b) a snowstorm or flood; or
(c) a shortage of water
the council, chairperson or mayor may declare a state of emergency in the municipality or part of the municipality.

What the Legislation Says

Section 405 of the *Municipalities Act, 1999* states:
(1) Where a state of emergency is declared under section 204, a council, chairperson or mayor may order
  (a) the closing of or the hours of operation of businesses and schools or a class of businesses and schools, in the municipality;
  (b) the banning or controlling of public gatherings;
  (c) the evacuation of buildings;
  (d) the restriction or prohibition of the use of vehicles or a class of vehicles on the streets of the municipality;
  (e) that children below a stated age or in certain age categories not be permitted on a public road, park or in a place of amusement during prescribed hours, whether alone or in the company of a parent, guardian or other adult; and
  (f) the restriction or prohibition of the use of water in the municipality.
(2) Subsections 404(2) to (6) apply, with the necessary changes, to an order made by a council under subsection (1).

Extreme weather events, the risks of forest fires and floods demonstrate the need for effective emergency management planning. An effective plan considers not only hazards and likelihood of risks but community resources and those of other agencies and departments required to meet these challenges. The EMP identifies key responsibilities of the **Emergency Management Coordinator (EMC)**, the **Emergency Management Planning Committee (EMPC)** of council and other local and regional partners and departments and agencies of government.

Example 1 Provide potable water to residents.
Example 2 Issue a boil water advisory in case of water treatment/supply failure.

Fire and Emergency Services-Newfoundland and Labrador (FES-NL) is tasked with the implementation of an emergency management strategy designed to develop and maintain a modern and robust emergency management system in the province, in collaboration with agency partners and stakeholders, in planning against, preparing for, responding to and recovering from emergencies, disasters and fires.

Risk Management

Emerging emphasis on risk management

More organizations – both private and public - are focusing on systemic and controllable risks. **Risk** is anything that may impede an organization's ability to achieve its current or future objectives. **Risk management** is the proactive mechanisms by which you manage risk.

Risk management and municipalities

Municipalities must identify and mitigate risks and determine the financial implications of managing risk. In a municipal context, infrastructure relates to:

- Road infrastructure
- Wastewater and storm water collection and drainage systems
- Water distribution systems
- Land and buildings
- Heavy equipment and vehicles

Challenges facing municipal infrastructure

The challenges facing councils in municipal infrastructure are many. Councils must determine the best or optimal time to rehabilitate, repair or replace aging assets. These decisions must be made in the context of an increasing demand for services, taxpayer resistance to rate increases, rising service expectations of customers and diminishing resources. Councils must also comply with increasingly stringent regulatory requirements and often are responding to emergencies as a result of asset and infrastructure failures.

Benefits of managing municipal infrastructure risk

Managing infrastructure risk is not just about reliability or technical issues, it is also about identification, assessment and planning. Strategies need to be developed about how to best manage and understand infrastructure risk and whether to accept, transfer or mitigate the risks.

Councils can benefit from effective municipal infrastructure risk management by developing plans and undertaking actions to prolong assets, ensuring efficiency while focusing operations and maintenance. Risk management enables councils to meet consumer demands with a focus on system sustainability, facilitating longer term capital budgeting and rates based on sound operational and financial planning. Planning allows council to meet service expectations and regulatory requirements and improve response to emergencies and the security and safety of assets.

Business Continuity Management

Business Continuity

While emergency and risk management consider either external threats through natural disasters and other emergencies or impacts on services and sustainability due to infrastructure, business continuity focuses on the capacity of an organization to deliver its products and services when faced with a major disruption. **Business continuity management** (BCM) is a management system planned and implemented to reduce losses caused by an interruption or disruption to an organization's process, product or service where the continued interruption past a certain time is seen to be detrimental to the organization's survival.

Benefits of Business Continuity for Municipalities

Business continuity evaluates potential weaknesses and offers council better insights as to how to strengthen and improve the organization. It shows stakeholders that council is prepared to maintain services such as a loss of critical infrastructure when disruptions happen. Many public agencies have already invested in quality management systems and business continuity is an extension of these processes, better protecting vital functions where employees are informed and rehearsed in continuity and recovery plans.

Steps in the business continuity planning process	
Policy/Program Management	Commitment of top management
Embedding	Building awareness of business continuity and undertaking training and professional development to build continuity capacity
Analysis	Assessment of critical organizational functions and prioritizing their importance in relation to customer (resident) expectation and needs
Design	Developing strategies and plans
Implementation	Implementing the business continuity system
Validation	Reviews, exercising and auditing the business continuity system

Example 1 Electronic backup of records and storage of records off site.
Example 2 Succession planning for retirement or loss of key staff.

Reference Material/Other Reading

ASQ: Learn About Quality http://www.asq.org/learn-about-quality/continuous-improvement/overview/overview.html

Good Practice Guidelines, Business Continuity Institute, 2013.

Managing Projects Large and Small: The Fundamental Skills for Delivery on Budget and on Time, Richard Luecke, Harvard Business Essentials

Our Common Future, World Commission on Environment and Development's (the Brundtland Commission) report, (Oxford: Oxford University Press, 1987).

Project Management Institute, http://search.pmi.org/?q=Definition+of+Project

Understanding Project Management, Community Capacity Building Program, Department of Tourism, Culture, Industry and Innovation, Government of Newfoundland and Labrador http://www.tcii.gov.nl.ca/regionaldev/CCB/ProjectMgmt/CCB_ProjectMgmtGuide.pdf

United Nations Economic and Social Commission for Asia and the Pacific http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp

COUNCIL

SECTION NINE

MUNICIPAL FINANCING AND OTHER COUNCIL RESOURCES

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Municipal Financing and other Council Resources

9.1 Section Overview

- *Gas Tax Fund (GTF)*
- *Municipal Operating Grants (MOGs)*
- *Municipal Capital Works (MCWs)*
- *Infrastructure and capital works*
- *Energy efficiency and green technology*
- *Waste management*
- *Recreation, health and seniors*
- *Economic development*
- *Regional cooperation*
- *Fire Protection and Emergency Services*
- *Training, professional development and community capacity building*
- *Special Assistance Fund*
- *Municipal Safety Council of Newfoundland and Labrador*

9.2 Gas Tax Fund (GTF)

Program	Description
Gas Tax Fund (GTF)	The federal/provincial Gas Tax Agreement transfers federal gas tax funds to support municipal infrastructure projects that contribute to cleaner air, cleaner water and reduced greenhouse gas emissions. A town in receipt of Gas Tax Funding must submit a completed *Integrated Community Sustainability Plan* (ICSP – see Section 8.3) and *Capital Investment Plan* (CIP - see Section 8.3) supported by a resolution of Council to access funds. A CIP is a four year plan that details the infrastructure projects the town proposes to complete.
For more information contact: Gas Tax Secretariat Department of Municipal Affairs and Environment Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 E-mail: gastax@gov.nl.ca Toll Free: 1-877-729-4393 Fax: (709) 729-3605 http://www.mae.gov.nl.ca/for/gta.html	

9.3 Municipal Operating Grants (MOGs)

Program	Description
Municipal Operating Grants (MOGs)	Effective 2014, annual Municipal Operating Grants (MOGs) are provided to municipalities with populations less than 11,000.
For more information contact: Municipal Finance Division Department of Municipal Affairs and Environment 4th Floor (West Block) Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-5381 Fax: (709) 729-5535 http://www.mae.gov.nl.ca/department/branches/divisions/municipal_finance.htm	

9.4 Municipal Infrastructure and Capital Works

Program	Description
Government of Newfoundland and Labrador	
Municipal Capital Works (MCW)	Municipal Capital Works funding is a cost shared program intended for municipal infrastructure.
For more information contact: Department of Municipal Affairs and Environment Confederation Building (West) P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-5677 http://www.mae.gov.nl.ca/capital_works/cwfunding.html	
Multi-Year Capital Works	Multi-Year Capital Works funding is provincial investment for larger municipal infrastructure and allows large towns to avail of three-year blocks of funding in support of improved planning and scheduling. Typical eligible projects are water and/or sewer, solid waste management, paving and/or road construction, municipal buildings and recreation.
For more information contact: Department of Municipal Affairs and Environment Confederation Building (West) P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-5677 http://www.mae.gov.nl.ca/capital_works/proposed.html	
Government of Canada	
Building Canada Fund (BCF)	The Communities Component of the Building Canada Fund targets projects in communities with populations of less than 100,000. Generally speaking, Building Canada Fund projects are cost-shared on the basis of a one third federal contribution. The municipality contributes its normal cost shared amount based on population (10%, 20% or 30%) with the province contributing the balance.
For more information contact: Building Canada Fund Infrastructure Canada Communications 180 Kent Street Suite 1100 Ottawa, ON K1P 0B6 Email: infc.info.infc@canada.ca Phone: 1-613-948-1148 Toll Free: 1-877-250-7154 http://www.infrastructure.gc.ca/contact/contact-eng.php	

9.5 Waste Management

Program	Description
Government of Newfoundland and Labrador	
Capital Funding	Capital funding is available for engineering studies, purchase of waste collection vehicles, upgrades to existing waste disposal sites that facilitate the closure of neighboring sites (interim consolidations), procurement and construction of waste management infrastructure. Individual communities are not typically eligible to receive Strategy funding unless they are working with other communities to share services.
For more information contact: Waste Management Division Department of Municipal Affairs and Environment 4th Floor (West Block)Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Email: MAEInfo@gov.nl.ca Phone: 709-729-5677 http://www.mae.gov.nl.ca/waste_management/	
Multi-Materials Stewardship Board (MMSB)	
Waste Management Trust Fund	The Trust Fund provides financial assistance for the closure of waste disposal sites, regional waste management studies and waste management coordinators, education initiatives, and research on potential waste diversion and recycling initiatives.
For more information contact: MMSB 6 Mount Carson Avenue Dorset Building Suite 300 Mount Pearl, NL A1N 3K4 Email: inquiries@mmsb.nl.ca Phone: (709) 753 0948 Toll-Free: 1-800 901 MMSB Fax: (709) 753 0974 http://mmsb.nl.ca/about-mmsb/contact/	
Regional Service Board	
Regional Service Boards	A Regional Service Board is an incorporated entity mandated under the *Regional Service Boards Act*. These boards are responsible for the planning, design, implementation and operation of comprehensive new waste management systems throughout the province.
For more information contact: Eastern Waste Management 709-579-7960 info@easternwaste.ca www.easternwaste.ca Central Newfoundland Waste Management 709-653-2900 info@cnwmc.com www.cnwmc.com Western Regional Waste Management 709-632-2922 info@wrwm.ca www.wrwm.ca	Northern Peninsula Regional Service Board 709-454-3110 info@norpenservices.ca www.norpenservices.ca Burin Peninsula Regional Service Board 709-891-1717 info@burinpenwaste.com www.burinpenwaste.com

9.6 Recreation, Health and Seniors

Program	Description
Government of Newfoundland and Labrador	
Department of Children, Seniors and Social Development	
Community Capital/ Physical Activity Equipment Program	Contribute financial support to communities and organizations so that appropriate recreation and sport infrastructure is provided. This funding is for infrastructure or capital expenditures that support recreation, sport or active living programs and to offset the cost of conserving existing recreation facilities or the development of new small-scale facilities.
For more information contact: Department of Children, Seniors and Social Development Recreation and Sport Division 2nd Floor, West Block Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-2829 Fax: (709) 729-6103 http://www.cssd.gov.nl.ca/recreation/	
Community Recreation Development Grant	The Community Recreation Development Grant assists communities to provide accessible, inclusive recreation and active living and leisure programs while promoting the benefits of a healthy, active lifestyle. It develops the capacity of communities, groups and organizations to plan and deliver these programs and services and make them part of health promotion and disease prevention.
Minor Project Capital Grant Program	The Minor Project Capital Grant Program has been developed to provide financial assistance for minor capital costs associated with recreation facilities and equipment and to assist with the rehabilitation of existing facilities.
For more information contact: Department of Children, Seniors and Social Development Recreation and Sport Division 2nd Floor, West Block Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-2829 Fax: (709) 729-6103 http://www.cssd.gov.nl.ca/recreation/	
Department of Health and Community Services	
Provincial Wellness Grants (PWG) Program	The PWG program provides an opportunity for communities to work in partnerships and enhance capacity to address wellness priorities: Healthy Eating; Physical Activity; Tobacco Control; Injury Prevention; Mental Health Promotion; Child & Youth Development and Environmental Health.
Healthy Aging Seniors Wellness Grants	The Healthy Aging Seniors Wellness Grants (HASWG) program assists community groups to develop activities that promote healthy living, especially those that keep seniors healthy and engaged.
For more information contact: Department of Health and Community Services P.O. Box 8700 1st Floor, West Block Confederation Building St. John's, NL A1B 4J6 Email: healthinfo@gov.nl.ca Phone: (709) 729-4984 http://www.health.gov.nl.ca/health/wellnesshealthyliving/index.html	

Government of Canada	
Employment and Social Development Canada	
New Horizons for Seniors Program	Community-Based projects under the New Horizons for Seniors Program (NHSP) enable seniors to share their knowledge, skills and experiences with others and help communities increase their capacity to address local issues.
For more information contact: New Horizons for Seniors Program St. John's Service Canada Centre Building 223 Churchill Avenue P.O. Box 8548 St. John's, NL A1B 3P3 Phone: 1-800-277-9914 https://www.canada.ca/en/employment-social-development/programs/seniors/funding/about.html	

9.7 Economic Development

Program	Description
Government of Newfoundland and Labrador	
Department of Municipal Affairs and Environment	
Community Enhancement Employment Program (CEEP)	The Community Enhancement Employment Program (CEEP) is a provincially-funded program that provides short-term employment for workers in rural areas employed by local governments or community organizations to assist them with eligibility for Employment Insurance benefits.
For more information contact: Employment Support Programs Division Department of Municipal Affairs and Environment Government of Newfoundland and Labrador P.O. Box 8700 St. John's, NL A1B 4J6 Toll Free: 1-866-508-5500 Fax: 709-729-2019 http://www.mae.gov.nl.ca/emp_support/ceep/2017-18_2_CEEP_Application_Guide.pdf	
Fish Plant Worker Employment Support Program	The Fish Plant Worker Employment Support Program is a provincially funded, targeted program focused on creating short-term employment for workers from fish plants designated by Government as permanently closed. Workers can also avail of employment counselling and supports provided by the Department of Advanced Education and Skills.
For more information contact: Department of Municipal Affairs and Environment 4th Floor (West Block)Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Email: MAEInfo@gov.nl.ca Phone: 709-729-5677 http://www.mae.gov.nl.ca/emp_support/fpwesp.html	

Department of Tourism, Culture, Industry and Innovation	
Economic Development Services The Department of Tourism, Culture, Industry and Innovation is the lead agency for economic development and is responsible for supporting development and diversification throughout the province. With regional and field offices throughout Newfoundland and Labrador, the department has Economic Development Officers (EDOs) that support partners by providing services such as economic planning facilitation and development, capacity building and ongoing project development and implementation.	
Business Investment Fund	The Business Investment Fund provides a source of funding to business and economic sectors that responds to the changing needs of enterprises. The Business Investment Fund is comprised of two components: the Business Investment Program and the Business Development Support Program. http://www.tcii.gov.nl.ca/programs/bif.html
The Department of Tourism, Culture, Industry and Innovation provides support to organizations by way of non-repayable contributions for projects aimed at improving the economic capacity and diversification in all regions of the province. The Regional Development Fund is comprised of two components: the Regional Development Program and Community Capacity Building.	
Regional Development Program	The Regional Development Program provides support by way of non-repayable contributions to organizations for the development and implementation of economic initiatives with respect to regional and sectoral development, diversification, innovation, and key emerging sectors. Projects submitted for consideration must clearly link non-commercial activities to economic diversification and/or business development. http://www.ibrd.gov.nl.ca/programs/RDF.html
Community Capacity Building	The Community Capacity Building component of the Regional Development Fund provides training support to non-profit organizations with a clear link to economic and business development. This includes Community Capacity Building module delivery and industry development sessions, based on four themes of economic development (strategy and planning, relationship building, organizational skills and management, and cooperative development). This includes using local planning capacity together with municipalities to highlight opportunities for cooperation and opportunity maximization. http://www.tcii.gov.nl.ca/regionaldev/capacitybuilding.html
Fisheries Adjustment	
Fish Plant Workers Employment Assistance Program	The Fish Plant Workers Employment Assistance Program for small and medium-sized enterprises provides new entrepreneurs and expanding small businesses with funding to employ fish plant workers negatively affected by the closure of a fish plant.
For more information contact: Department of Tourism, Culture, Industry and Innovation P.O. Box 8700 West Block, Confederation Building St. John's, NL A1B 4J6 Phone: (709) 729-7000 http://www.tcii.gov.nl.ca	
Department of Advanced Education, Skills and Labour	
Job Creation Partnerships	Job Creation Partnerships (JCP) support projects that provide eligible individuals with work experience.
Labour Market Partnerships	Labour Market Partnerships provide funding to support employers, employer or employee associations, community groups and communities in developing and implementing labour market strategies and activities for dealing with labour force adjustments and meeting human resource requirements. Labour Market Partnerships may be used to provide assistance for employed persons who are facing loss of employment.
For more information about other supports and services offered by the Department: Department of Advanced Education, Skills and Labour P.O. Box 8700 3rd Floor, West Block Confederation Building St. John's, NL A1B 4J6 Email: AESL@gov.nl.ca Phone: (709) 729-2480 http://www.aesl.gov.nl.ca/default.htm	

Government of Canada	
Atlantic Canada Opportunities Agency (ACOA)	
Innovative Communities Fund (ICF)	The ICF invests in strategic projects to diversify and enhance the economies of Atlantic communities that lead to long-term employment and economic capacity building.
For more information contact: ACOA P.O. Box 1060 STN C St. John's, NL A1C 5M5 General Enquiries: 709-772-2751 Toll Free: 1-800-668-1010 Fax: 709-772-2712 http://www.acoa-apeca.gc.ca/eng/ImLookingFor/ProgramInformation/Pages/ProgramDetails.aspx?ProgramID=6	
Department of Foreign Affairs and International Trade (DFAIT)	
Invest Canada-Community Initiatives (ICCI)	ICCI supports non-profit and public-private partnerships at the local community level to increase total Canadian employment by facilitating the participation of Canadian communities in collaborative efforts to attract, retain and expand foreign direct investment.
For more information contact: Department of Foreign Affairs and International Trade International Business Development, Innovation and Asia Branch Foreign Affairs, Trade and Development Canada 111 Sussex Drive, Ottawa, ON K1N 1J1 Email: icci@international.gc.ca Phone: 613-944-3142 Fax: 613-944-3312 http://tradecommissioner.gc.ca/funding-financement/icci-icic/index.aspx?lang=eng	
Municipalities Newfoundland and Labrador (MNL)	
Economic Development Guides	MNL has developed a series of guides to facilitate municipal economic development including: Taxation and Municipal Economic Development Land Use Planning & Municipal Economic Development Economic Development: Small Towns & Big Industries Public Infrastructure & Municipal Economic Development Municipalities & Regional Economic Development
For more information contact: Municipalities Newfoundland and Labrador 460 Torbay Road. St. John's, NL A1A 5J3 Email: mnl@municipalnl.com Phone: (709) 753-6820 Toll Free: 1-800-440-6536 Fax: (709) 738-0071 http://www.municipalnl.ca/	
Newfoundland and Labrador Association of Community Business Development Corporations (NLACBDC)	
CBDCs	The Community Business Development Corporations (CBDCs) are a network of autonomous, not-for-profit companies working to meet the needs of small business. There are 15 CBDCs in Newfoundland and Labrador, each dedicated to the development of small business and job creation in their communities.
For more information contact: Newfoundland and Labrador Association of Community Business Development Corporations 961 Topsail Road Mount Pearl, NL A1N 3K1 Phone: 709-738-1626 http://www.cbdc.ca/en/find-my-cbdc/nl	

9.8 Regional Cooperation

Program	Description
Government of Newfoundland and Labrador	
Department of Municipal Affairs and Environment	
Regional Cooperation Supports	The Regional Cooperation Program Provides Municipalities, Local Services Districts and unincorporated communities with guidance and support relating to cooperative interests. This includes sharing of services, annexation and amalgamation.
For more information contact: Department of Municipal Affairs and Environment 4th Floor (West Block) Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: 709-729-5677 http://www.mae.gov.nl.ca/	
Municipalities Newfoundland and Labrador	
Community Cooperation	Community Cooperation was launched in 2003 as an initiative of the MNL Board of Directors and conducts research on community cooperation initiatives.
For more information contact: Municipalities Newfoundland and Labrador 460 Torbay Road. St. John's, NL A1A 5J3 Email: mnl@municipalnl.com Phone: (709) 753-6820 Toll Free: 1-800-440-6536 Fax: (709) 738-0071 http://www.municipalnl.ca/	

9.9 Fire Protection and Emergency Services

Program	Description
Government of Newfoundland and Labrador	
Department of Municipal Affairs and Environment	
Fire Protection Services Funding	Funding is provided for firefighting trucks/vehicles under the Fire Protection Infrastructure Program and firefighting equipment and other initiatives such as regional training programs, emergency response outside municipal boundaries, and hazardous materials (HazMat) response under the Firefighting Equipment Financial Assistance Program.
For more information contact: Department of Municipal Affairs and Environment 4th Floor (West Block) Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: 709-729-3051 http://www.mae.gov.nl.ca/	
Fire and Emergency Services – Newfoundland and Labrador (FES-NL)	
Fire and Emergency Services Training	FES-NL conducts a provincial Fire and Emergency Services Training School and also offers local emergency management training on a variety of topics on a scheduled and as-requested basis province-wide.
For more information contact: Fire and Emergency Services - NL 25 Hallett Crescent P.O. Box 8700 St. John's, NL A1B 4J6 Fire Protection Services Phone: 1-709-729-1608 Fire Protection Services Fax: 1-709-729-2524 Emergency Services Phone: 1-709-729-3703 Emergency Services Fax: 1-709-729-3857 http://www.gov.nl.ca/fes/	

9.10 Training, Professional Development and Community Capacity Building

Program	Description
Government of Newfoundland and Labrador	
Department of Municipal Affairs and Environment	
Municipal Training Program	The municipal training program strengthens and improves the leadership, administrative, operational and other job related skills of municipal councillors, municipal administrators, and other municipal employees. Training is available in the following areas: • Municipal budgeting • Councillor orientation • Managing Municipal Infrastructure in a Changing Climate • Roles & Responsibilities of Council & Staff • Conflict of Interest • Council Meeting Skills and Procedure • Municipal Assessment Agency • Training for Election officials
For more information contact: Department of Municipal Affairs and Environment Manager, Municipal Training 4th Floor, West Block, Confederation Building P.O. Box 8700, St. John's, NL A1B 4J6 Phone: (709) 729-5107 Fax: (709) 729-4475 http://www.mae.gov.nl.ca/training/	

Municipalities Newfoundland and Labrador and the Professional Municipal Administrators also provide opportunities for ongoing training and professional development.

9.11 Other Programs, Services and Supports

Program	Description
Government of Newfoundland and Labrador	
Department of Municipal Affairs and Environment	
Special Assistance Fund	Special Assistance Fund provides financial aid to support municipalities and related organizations for: emergencies related to health and/or of a life safety nature; assistance to municipalities experiencing financial difficulties; general assistance to municipalities beyond the municipal budgetary process and special projects or initiatives involving municipalities, local service district committees or other entities.
For more information contact: Municipal Finance Division Department of Municipal Affairs and Environment 4th Floor, West Block, Confederation Building P.O. Box 8700 St. John's, NL A1B 4J6 Phone: (709) 729-5381 Fax: (709) 729-5535 http://www.mae.gov.nl.ca/department/branches/divisions/municipal_finance.html http://www.mae.gov.nl.ca/for/saf.html	
Other	
Municipal Safety Council of Newfoundland and Labrador (MSCNL)	
The MSCNL is a new organization created to bring focus to the issue of workplace injuries in the Municipal Sector. The Municipal Sector in the Province has experienced higher than average incidents of injury in municipal workers and third-party contractors. MSCNL's purpose is to promote and improve all aspects of occupational health and safety and return to work in the Newfoundland and Labrador Municipal Sector.	
For more information contact: Municipal Safety Council of Newfoundland and Labrador 460 Torbay Road, St. John's, NL A1A 5J3 Email: info@mscnl.ca Phone: (709) 753-9599 / Fax: (709) 738-0071 http://www.mscnl.ca	

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SECTION TEN

MY COUNCIL

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My Council

10.1 Section Overview

This section allows an individual council to provide council-specific content for new and current councillors. Suggested content in this section might include:

- Contact information for councillors and key staff
- Rules of Procedure for conduct of council meetings
- Summary of conflict of interest guidelines
- Councillor disclosure statement(s)
- Human resource policy manual
- Rules governing public conduct at council meetings
- Committee terms of reference and membership
- Policy manual of council identifying by-laws, regulations and procedures
- Annual budget
- Annual tax schedule
- Multi-year capital works budget
- Capital Investment Plan
- Access to Information policy
- Stakeholder relations/communications plan
- Integrated Community Sustainability Plan (ICSP)

Individual councils may build on the areas covered in this Handbook by providing councillors with ready access to key council policies and information and enabling easy orientation for new councillors.

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