



# INFORMATION REPORT

<b>TO:</b>	Chair and Members General Issues Committee
<b>COMMITTEE DATE:</b>	August 14, 2017
<b>SUBJECT/REPORT NO:</b>	Bill 68, Modernizing Ontario's Municipal Legislation Act - Summary of Changes (LS17028) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Lisa Pasternak, (905) 546-2424 ext. 7292
<b>SUBMITTED BY:</b>	Nicole Auty, City Solicitor Legal Services Division, Corporate Services Department
<b>SIGNATURE:</b>	

## Council Direction:

At its meeting of November 23, 2016 City Council directed staff to report to the General Issues Committee on Bill 68, *Modernizing Ontario's Municipal Legislation Act*.

## Information:

Bill 68, the *Modernizing Municipal Legislation Act*, which received Royal Assent on May 30, 2017, affects the *Municipal Act* (MA), *Municipal Conflict of Interest Act* (MCIA), the *Municipal Elections Act* (MEA), and the *Planning Act* (PA), among other Acts.

This summary lists changes made by Bill 68 under the headings shown in the first column of the table below.

The second column of the table shows whether or not the changes are in force. Some of Bill 68's provisions came into force immediately and others will come into force on a future date which is yet to be determined by the Province.

In 2015, Council requested that the Province include certain changes in Bill 68. The third column of the table shows these requested changes and whether or not they were included in the final version of Bill 68.

Following the table is the listing of the changes made by Bill 68. Minor technical changes are not included.

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Affected staff from Corporate Services (Clerks and Finance), Human Resources, Planning and Economic Development (Building, Licensing and By-law, Planning and Growth Management), Public Works (Energy, Fleet and Facilities, Engineering, Environmental Services and Operations) has been consulted in the preparation of this report and will report to Committee/Council on the changes as noted.

<b>HEADINGS</b>	<b>CHANGES IN FORCE/NOT IN FORCE</b>	<b>CHANGES REQUESTED BY COUNCIL</b> (See Report LS15030, adopted on October 28, 2015).
1. Codes of Conduct and the Municipal Conflict of Interest Act	Not in force – in force date to be determined by the Province.	No requests.
2. Elections	In force now or on April 1, 2018.	No requests.
3. Enforcement	In force now.	Limit the grandfathering provision for signs to permanent signs – included by giving Council the authority to determine grandfathering in new sign by-laws.  Expand authority of the City with respect to licensing payday loan establishments – included in separate legislation that is not yet in force.
4. Environment	In force now.	No requests.
5. Finance: Tax Collection, Tax Sales and Investments	Tax Collection – In force now.  Tax Sales – Except for some of the provisions with	Allow for a “prudent investor” standard – included.  Align all provisions under which amounts owing may be added to the tax roll – not included.

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<b>HEADINGS</b>	<b>CHANGES IN FORCE/NOT IN FORCE</b>	<b>CHANGES REQUESTED BY COUNCIL</b> (See Report LS15030, adopted on October 28, 2015).
	<p>respect to the registration of tax certificates, not in force – in force date to be determined by the Province.</p> <p>Investments – Not in force – in force date to be determined by the Province.</p>	<p>Add flexibility with respect to vacancy rebates – included in separate MA amendment.</p> <p>Shorten the time for registering a tax arrears certificate – included.</p> <p>Eliminate the levy restriction on multi-residential, commercial and industrial property classes to allow tax increases to be appropriately shared – not included.</p> <p>Increase the Heads/Beds Payment in Lieu – not included.</p> <p>Eliminate the capping of tax increases at the end of 2020 – included in separate MA regulation amendment that is in force.</p>
6. Meetings	Not in force – in force date to be determined by the Province.	<p>Improve the definition of meeting to specify that there be quorum and that decision-making be advanced – included.</p> <p>Expand the exceptions for closed meetings to sensitive commercial negotiations, intergovernmental relations and personnel matters – included except for personnel matters.</p> <p>Clarify the definitions to ensure that administrative tribunals appointed by Council may retire to deliberate – not included.</p>
7. Planning	In force now.	No requests.

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8. Policies	Not in force – in force date to be determined by the Province.	No requests.
9. Other	In force now.	Provide that a member of Council is not compellable a witness on claims against the City – not included.  Replace “surface discontinuity” with “trip ledge” in the Minimum Maintenance Standards for Municipal Highways Regulation – not included.  Clarify that a contractual obligation for indemnification can be limited by a contract for insurance as a cap – not included.

### **1. Codes of Conduct and the Municipal Conflict of Interest Act**

All of the changes with respect to codes of conduct and the MCIA will come into force on a future date. Several of these changes require Council action and staff will report, making the necessary recommendations, when the coming into force date is determined by the Province.

- An Integrity Commissioner is now mandatory for all municipalities and local boards as are codes of conduct. The Minister of Municipal Affairs may establish minimum standards for codes of conduct that apply across Ontario. (223.2 MA)
- An Integrity Commissioner, in addition to applying codes of conduct and other procedures, rules or policies that govern ethical behaviour, must apply the MCIA to members of Council and local boards, give advice to members of Council and local boards and provide educational information to members of Council, local boards and the public. (223.3(1), (2.1), (2.2) and (2.3), and 223.4.1 MA)
- A municipality must indemnify its Integrity Commissioner. (223.3(6) MA)

- An Integrity Commissioner's investigation of code of conduct complaints or MCIA complaints ends automatically if not completed prior to the nomination date for a regular election and does not begin if the complaint is made during a regular election. A complaint which ends or does not begin can be revived six weeks after voting day upon the complainant or the member of Council or local board who was the subject of the complaint making a written request to the Integrity Commissioner. (223.4(7), (8) and (9), and 223.4.1(3), (4), (12) and (13) MA)
- The following list of principles has been added to the MCIA:
  - 1.1** The Province of Ontario endorses the following principles in relation to the duties of members of Councils and of local boards under this Act:
    1. The importance of integrity, independence and accountability in local government decision-making.
    2. The importance of certainty in reconciling the public duties and pecuniary interests of members.
    3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
    4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise. (1.1 MCIA)
- Members of Council or local boards can defend themselves at meetings where penalties for code of conduct breaches are being considered, but cannot vote on the penalties. (5(2.1) MCIA)
- Members of Council or local boards who declare a pecuniary interest in a matter are required to file a written statement of interest with the clerk who maintains a public registry of these statements. (5.1 and 6.1 MCIA)
- Members of Council or local boards who have pecuniary interest in a matter are prohibited from influencing decisions on the matter made by their officials, staff and those with delegated authority (except when a delegated authority is considering penalties for code of conduct breaches). (5.2 MCIA)
- The penalties that a court can impose when it finds non-compliance with the MCIA are expanded to include a reprimand or suspension of remuneration and the loss of office is no longer an automatic penalty. (9(1) MCIA)

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- A court deciding and MCIA matter is expressly permitted to consider, as a mitigating factor, whether the Council or local board member took reasonable measures to prevent the contravention or followed advice from their Integrity Commissioner. (9(2) MCIA)

## **2. Elections**

The changes with respect to elections are in force except for the change with respect to the maximum contribution to a registered third party which comes into force on April 1, 2018. These changes do not require Council action.

- Starting in 2022, Council's term will begin on November 15 rather than on December 1. (6 MEA)
- The maximum contribution to a candidate or a registered third party is increased from \$750 to \$1,200. (88.9 and 88.13 MEA)
- The clerk calculates the maximum contribution a candidate and their spouse may make according to a prescribed formula and provides a certificate of this maximum contribution to the candidate. (33.0.2 and 88.9.1 MEA)

## **3. Enforcement**

All of the changes with respect to enforcement are in force.

- Existing signs are no longer required to be grandfathered when a new sign by-law is passed. As with fences and other matters, Council may decide on what extent to grandfather signs. (99(1) MA)
- A municipality may regulate site alteration in areas under the jurisdiction of a conservation authority. Staff will be asking that the consultant selected to review the Site Alteration By-law address this matter, specifically in relation to larger fill operations and the impact to municipal interests such as mud tracking and dust control, truck routes and generating sites. (repeal of 142(8) MA)
- A municipality's authority to use an administration penalty system for all by-laws passed under the MA, not only for parking by-laws, is confirmed. Building on the success of the administrative penalty system for parking enforcement, the Licensing and By-law Services Division is working to expand the use of the system to other enforcement by-laws. Once approved by Council, the proposal will bring the Responsible Animal Ownership By-law No. 12-031 and the

Business Licensing By-law No. 07-170 into the system, allowing for an effective enforcement process. (434.1 MA)

#### **4. Environment**

All of the changes with respect to the environment are in force.

- A municipality's authority to pass by-laws concerning its economic, social and environmental well-being now explicitly includes the authority to pass by-laws concerning climate change. (10(2)5 MA)
- By-laws may be passed respecting the protection or conservation of the environment for buildings to be constructed in accordance with the building code provided that such by-laws do not conflict with the building code. (97.1, MA)
- A municipality has authority to participate in long-term energy planning in the municipality, including consideration of energy conservation, climate change, and green energy. (147 MA)

#### **5. Finance: Tax Collection, Tax Sales and Investments**

All of the changes with respect to tax collection, with one exception (s. 338.5 – Transient Accommodation Tax) are in force. The changes with respect to the registration of tax certificates for tax sales are in force. Other changes with respect to tax sales will come into force on a date to be determined. The change with respect to investments will come into force on a date to be determined.

- There are several amendments regarding property tax collection that improve clarity and efficiency. For example:
  - o All or part of a tax refund may be credited to an outstanding tax liability. (341(3) MA)
  - o A tax bill may be sent electronically, if requested. (343(6.1) MA)
  - o A municipality may cancel, reduce or refund a payment in lieu of taxes. (357.1 MA)
- There are also several amendments regarding tax sales, including:
  - o The time for registering a tax arrears certificate is shortened from three years to two years. (373(1) MA)

- Excess proceeds from a tax sale are paid into court for ten years rather than one year and, if not claimed while held by the court, are then paid to the Province rather than the municipality. (380(8) and (9) MA)
- A municipality that meets certain requirements may invest money that it does not immediately require in any security under a “prudent person” option upon Council approval of an appropriate “Statement of Investment Policies and Procedures”. Assessing this change will have to wait until the content of any regulations is known. Appropriate staff will report when this occurs. (418.1 MA)

## **6. Meetings**

All of the changes with respect to meetings will come into force on date to be determined. Staff will report, making the necessary recommendations, when the coming into force date is determined by the Province.

- The definition of a meeting, which is important for closed-meeting investigations, is clarified to require that a quorum be present and that the matter being discussed is dealt with in a way that materially advances business. (238(1) MA)
- A procedure by-law may provide for electronic participation in meetings when the meeting is open to the public and the member participating electronically is not counted as part of quorum. (238(3.1) and (3.2) MA)
- The exceptions allowing meetings to be closed for the consideration of particular subject matters are expanded to include subject matters that are:
  - information explicitly supplied in confidence by Canada, a Province or territory or a Crown agency of any of them;
  - a trade secret or scientific, technical, commercial, financial or labour relations information supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value;

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- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board. (239(h), (i), (j) and (k) MA)
- When a report is received from a closed meeting investigator that finds a meeting was closed improperly, a municipality or local board must pass a resolution stating how it intends to address the report. (239.2(12) MA)

## **7. Planning**

Both the changes with respect to planning are in force.

- An agreement containing conditions on a permit to convert or demolish rental residential property can be registered on title and, therefore, enforced against subsequent owners. (99.1(2.1), MA)
- The list of matters of provincial interest is expanded to including the mitigation of greenhouse gas emissions and adaptation to a changing climate. (2(s), PA)

## **8. Policies**

The change with respect to policies will come into force on a date to be determined. This change requires Council action and appropriate staff will report, making the necessary recommendations, when the coming into force date is determined by the Province.

- Municipalities are now required to have policies on:
  - Council-municipal employee relations – The City has a number of measures in place with respect to Council-municipal employees, including the Council and Employee Codes of Conduct, and these will be listed in the policy.
  - protection and enhancement of the tree canopy and natural vegetation – The City has a number of measures in place with respect to protection and enhancement of the tree canopy and natural vegetation, including Tree and Woodland Conservation By-laws, a Tree Preservation and Sustainability Policy, and Tree Protection Guidelines for Development, and these will be listed in the policy.
  - pregnancy and parental leaves of Council members – This is a new measure as will be set out in the policy. (270(1), MA)

**9. Other**

All of these changes are in force. These changes do not require Council action.

- What community Councils may be responsible for and what their composition may be is set out. (23.6, MA)
- A municipality has authority to enter onto land adjoining its land for the purpose of maintaining, repairing or altering its land. (132.1, MA)
- The municipal auditor is no longer required to approve record retention periods. (255(3), MA)
- A member of Council may be absent for a maximum of 20 consecutive weeks as a result of pregnancy or the birth or adoption of a child without their office becoming vacant. (259(1.1), MA)