



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [\*Table of Public Acts\*](#).

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**CHAPTER M-13**  
**MUNICIPALITIES ACT**

**PART I**  
**INTERPRETATION AND APPLICATION**

- |   |                           |
|---|---------------------------|
| <b>1. In this Act</b>   | Definitions               |
| (a) “administrator” means the administrator of a municipality;  | administrator             |
| (a.1) “bylaw enforcement officer” means a bylaw enforcement officer appointed under section 29.1;   | bylaw enforcement officer |
| (b) “community” means an area incorporated as a community under section 8 or 9 and includes the villages and communities set out in Schedule 1;   | community                 |
| (c) “council” means the council of a municipality;  | council                   |
| (d) “Minister” means the Minister of Community and Cultural Affairs;  | Minister                  |
| (d.1) “municipal offence ticket” means a ticket that may be issued, pursuant to a bylaw made under subsection 58.1(2), in respect of an offence against a bylaw;  | municipal offence ticket  |
| (e) “municipality” means, in accordance with the context, either an area incorporated as a town or community under this Act, including the areas specified in Schedule 1, or the corporation into which the residents of the area have been incorporated as a municipality; | municipality              |
| (f) “resident” means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of a municipality;  | resident                  |
| (g) “town” means an area incorporated as a town under section 8 or 9 and includes the towns set out in Schedule 1. 1983, c.33, s.1; 1993, c.29, s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2006,c.13,s.1.  | town                      |
| <b>2. This Act applies to all municipalities. 1983, c.33, s.2.</b>  | Application               |

**PART II**

**CORPORATE STATUS OF MUNICIPALITY**

- |   |             |
|---|-------------|
| <b>3. When a municipality is formed under this Act, the inhabitants of the municipality become a corporation with the name given the municipality</b> | Corporation |
|---|-------------|

in the order forming it and with the powers of a corporation set out in section 16 of the *Interpretation Act* R.S.P.E.I. 1988, I-8. 1983, c.33, s.3.

Corporate seal

**4.** A municipality shall have a corporate seal bearing the name of the municipality and the year of its incorporation. 1983, c.33, s.4.

### PART III

#### NEW MUNICIPALITIES

##### FORMATION

Petition

**5.** Upon receipt of a petition signed by at least twenty-five residents of an area indicating

- (a) their desire to have a municipality established for the area;
- (b) in general terms, the geographical boundaries of the municipality;
- (c) whether the municipality is to be a town or community; and
- (d) the services to be provided by the municipality,

the Minister shall call a public meeting of the residents of the area to discuss the matters contained in the petition and to determine if there is public support therefor. 1983, c.33, s.5.

Notice

**6.** Notice of the public meeting shall be published in the Gazette and on at least two occasions in a newspaper circulating in the area indicating

- (a) in general terms, the content of the petition;
- (b) the date, time and place of the meeting which shall be held not less than fourteen days after the date of publication of the first notice in a newspaper; and
- (c) that residents of the area are invited to attend and make representations concerning the petition. 1983, c.33, s.6.

Further studies

**7.** Before making any recommendation with respect to any petition, the Minister may conduct

- (a) a plebiscite of the residents of the area in accordance with the regulations;
- (b) a feasibility study. 1983, c.33, s.7.

Order for  
incorporation of  
municipality

**8.** (1) After consideration of the petition and the recommendation of the Minister, the Lieutenant Governor in Council may, by order published in the Gazette, incorporate the inhabitants of an area as a municipality.

*Idem*

- (2) An order under subsection (1) may
  - (a) prescribe the name and boundaries of the municipality;
  - (b) designate the status of a municipality as a town or community;
  - (c) prescribe the services that may be provided by the municipality;

- (d) appoint an interim council to hold office until the first elections are held;
- (e) prescribe the effective date of the order;
- (f) do any other things that are considered necessary to make the order effective. 1983, c.33, s.8.

## RESORT MUNICIPALITIES

### 8.1 (1) In this section

Definitions

- (a) “resort area” means an area in which
  - (i) tourism is the most important industry,
  - (ii) many of the business enterprises are operated on a seasonal basis,
  - (iii) many of the residents are seasonal residents;
- (b) “temporary resident” means a landowner in a resort area who is a seasonal resident or the operator of a business enterprise in the area or a farmer who lives outside the area but owns and farms land in the area.

(2) Where the Lieutenant Governor in Council determines an area to be a resort area, the Minister may, on receipt of a petition under section 5 signed by at least thirty persons of whom

Petition in respect of resort area

- (a) at least fifteen are residents of the area;
- (b) at least fifteen are temporary residents,

call a public meeting of the residents and temporary residents of the area to discuss the matters contained in the petition and to determine if there is public support therefor.

(3) After consideration of the petition and the recommendation of the Minister, the Lieutenant Governor in Council may, by order published in the Gazette, incorporate the inhabitants of the area as a resort municipality.

Incorporation of resort municipality

(4) The provisions of this Act apply to a resort municipality with the following modifications:

Application of Act

- (a) section 7 does not apply;
- (b) any reference to “resident” includes a “temporary resident” and any qualifying period applicable to a resident does not apply to a temporary resident;
- (c) the reference in subsection 15(5) to the third Monday of November shall be deemed to be a reference to September 1;
- (d) the reference
  - (i) in clause 48(1)(a) to the first Monday in November shall be deemed to be a reference to the second Monday in August,
  - (ii) in subsection 55(2) to March shall be deemed to be a reference to August;

(e) a temporary resident who is elected to office in a resort municipality shall be a resident of Prince Edward Island and is disqualified to hold office in any other municipality. 1990, c.36, s.1 *{eff.}* June 16/90; 1991, c.27, s.1; 1992, c.49, s.1; 2006,c.24,s.2.

#### PART IV

##### CHANGE OF STATUS, CORRECTIONS, ADJUSTMENTS, DISSOLUTIONS AND AMALGAMATIONS

Application for change of status, corrections, adjustments, dissolution or amalgamation	<p><b>9.</b> (1) After the passage of a council resolution and receipt by the Minister of an application from the municipalities affected, the Lieutenant Governor in Council may by order published in the Gazette</p> <ul style="list-style-type: none"> <li>(a) change the status of a municipality from community to town or from town to community;</li> <li>(b) correct an error in the description of, or resolve any doubt concerning, a municipal boundary line;</li> <li>(c) dissolve a municipality;</li> <li>(d) adjust a mutual boundary line;</li> <li>(e) reduce the boundaries of a municipality;</li> <li>(f) amalgamate two or more municipalities to form one municipality;</li> <li>(g) change the name of a municipality.</li> </ul>
Content of application	<p>(2) The application referred to in subsection (1) shall include</p> <ul style="list-style-type: none"> <li>(a) a copy of the council resolution;</li> <li>(b) a statement indicating the reasons for the request and the financial implications;</li> <li>(c) any other information the Minister may request.</li> </ul>
Content of order	<p>(3) An order under subsection (1) may</p> <ul style="list-style-type: none"> <li>(a) prescribe the new boundaries of the municipality;</li> <li>(b) provide for the disposition of the assets and liabilities;</li> <li>(c) do any other things that are considered necessary to make the order effective.</li> </ul>
Application to certain municipalities	<p>(4) Notwithstanding clause 1(e), clauses 9(1)(b) to (f) and subsections 9(2) and (3) apply to the City of Charlottetown, City of Summerside and the towns of Charlottetown South and Charlottetown West. 1983, c.33, s.9; 1994, c.41, s.1 <i>{eff.}</i> March 31/95.</p>
Special commissioner	<p><b>10.</b> (1) Where a council has become inoperative or in the opinion of the Minister functions in a manner contrary to the best interests of the residents, the Lieutenant Governor in Council may by order dismiss the council and appoint a special commissioner to carry on the administration of the municipality on an interim basis and arrange for the election of a new council.</p>

(2) Notwithstanding clause 1(e), subsection (1) applies to the City of Charlottetown, City of Summerside and the towns of Charlottetown South and Charlottetown West. 1983, c.33, s.10; 1994, c.41, s.2 *{eff.}* March 31/95.

Application to certain municipalities

**10.1** (1) Notwithstanding section 10, where a municipality fails or neglects to hold an election in accordance with the procedures in this Act, the Minister may

Powers of Minister

- (a) conduct a survey of residents to determine if they wish to continue to have municipal status;
- (b) act in the place of the council for the purpose of holding an election.

(2) Where a survey conducted pursuant to subsection (1) shows that a majority of the residents surveyed no longer wish to have municipal status, the Lieutenant Governor in Council may, by order published in the Gazette, dissolve the municipality. 1991, c.27, s.2.

Dissolution

**10.2** Where a municipality or municipally unincorporated area has been or will be affected by an order made pursuant to the powers conferred by subsection 9(1), the bylaws pertaining to the municipality or area shall, unless earlier revoked or replaced by the new municipality, remain in effect for a period of up to three years and shall be deemed to have been made by the council of the new municipality. 1994, c.41, s.3 *{eff.}* March 31/95.

Bylaws

**11.** Part IV and this Part apply to

- (a) a municipality as defined in section 1; and
  - (b) the City of Charlottetown and the City of Summerside,
- and for the purposes of those Parts references to “municipality” shall be deemed to include reference to the areas mentioned in clause (b). 1983, c.33, s.11; 1994, c.59, s.75.

Application of Parts IV and V

**12.** (1) Where a municipality wishes to extend its boundaries to include an area for which no municipal government is provided under this Act, it may apply to the Minister for approval of the annexation of that area.

Annexation of area having no municipal government

(1.1) No application shall be made under subsection (1) unless, at least four weeks prior to the date on which the council proposes to adopt the resolution extending the boundaries of the municipality, the council causes a written notice to be sent to the residents of the area to be annexed, together with

Notice of proposed annexation

- (a) a copy of the proposed resolution;
- (b) a map illustrating the area to be annexed identifying the relevant properties by parcel number;
- (c) a statement of the reasons for the extension;

	(d) a statement of the municipal services to be provided in the annexed area;
	(e) a statement of the financial implications with respect to real property tax and rates for municipal services.
Resolution of council	(2) No application shall be made under subsection (1) unless supported by a resolution of the council.
Application	(3) An application shall set out <ul style="list-style-type: none"> <li>(a) in general terms, the geographical boundaries of the area to be annexed;</li> <li>(b) the reasons in favour of the proposed annexation; and</li> <li>(c) the services to be provided and the level of municipal taxation to be applied to residents of the annexed area. 1983, c.33, s.12; 1995, c.32, s.7.</li> </ul>
Public hearing	<b>13.</b> (1) On receipt of an application, the Minister shall direct the Island Regulatory and Appeals Commission to conduct a public hearing in or near the area to be annexed for the purpose of reviewing the application.
Notice	(2) Notice of the public hearing shall be published in the Gazette and on at least two occasions in a newspaper circulating in the area, indicating <ul style="list-style-type: none"> <li>(a) in general terms, the content of the application;</li> <li>(b) the date, time and place of the meeting which shall be held not less than fourteen days after the date of publication of the first notice in a newspaper;</li> <li>(c) that residents of the municipality and the area to be annexed and any persons affected by the application are invited to attend and make representations concerning the application.</li> </ul>
Procedure	(3) The Commission shall determine all matters of procedure at the public meeting.
Recommendation of Commission	(4) The Commission shall review the representations made at the public meeting and shall make a recommendation to the Minister as to whether the proposed annexation is justified for municipal purposes having regard to <ul style="list-style-type: none"> <li>(a) the future development of the municipality;</li> <li>(b) administrative convenience;</li> <li>(c) any significant loss of productive agricultural land. 1983, c.33, s.13; 1991, c.18, s.22 <i>{eff.}</i> Nov. 4/91; 1994, c.41, s.4 <i>{eff.}</i> July 28/94.</li> </ul>
Decision	<b>14.</b> (1) The Minister shall present the application, together with the recommendation of the Island Regulatory and Appeals Commission, to the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may, by order published in the Gazette, approve or reject the application and order that the boundaries of the municipality be extended to annex the area in accordance with the application.

Order

(3) Where an order extending the boundaries is made under subsection (2), the annexed area becomes for all purposes part of the municipality and is subject to all bylaws in force in the municipality to which it is annexed. 1983, c.33, s.14; 1991, c.18, s.22 *{eff.}* Nov. 4/91; 1994, c.41, s.4 *{eff.}* July 28/94.

Effect of order

## PART VI THE COUNCIL

**15.** (1) Every municipality shall have a council consisting of

(a) in the case of a town, a mayor and six councillors;

(b) in the case of a community, a chairperson and not fewer than three or more than six councillors,

elected in accordance with sections 48 and 50.

Municipal council

(1.1) In a resort municipality at least two of the councillors shall be persons who are not temporary residents as defined in clause 8.1(1)(b).

Resort municipality

(2) The term of office of a mayor, chairperson or councillor is three years and they are eligible for re-election.

Term of office

(3) The council is the governing body of the municipality.

Governing body

(4) The qualifications for nomination and for holding office as a mayor, chairperson or councillor of a municipality are that the nominee is

Qualifications for councillors

- (a) not less than eighteen years of age;
- (b) a Canadian citizen; and
- (c) resident for a period of one year preceding the date of the nomination.

(4.1) Where a mayor, chairperson or councillor ceases to be resident in the municipality in which he holds office, he shall, within thirty days thereof, vacate his office.

Vacation of office on ceasing to be resident

(4.2) Without prejudice to subsection (4.1), where a mayor, chairperson or councillor is continuously absent from the municipality for more than three calendar months or is absent from the regularly scheduled meetings of the council for more than three successive months without being thereto authorized by a resolution of the council, the

Absence



council may, except where such absence is occasioned by illness, declare his office to be vacant.

Taking office

(5) The council shall take office on the third Monday of November following their election or any such later date as may be approved by Existing Council.

(6) Notwithstanding subsection (1), where on November 1, 1983, a community had a council the composition of which was different from that specified in subsection (1), that council as so composed may continue to act and shall be deemed for all purposes to be the validly constituted council of that community until a resolution, approved by the residents at an annual or special meeting, takes effect to reconstitute the council in accordance with that subsection. 1983, c.33, s.15; 1990, c.36, s.2 *{eff.}* June 16/90; 1994, c.41, s.6, *{eff.}* July 28/94; 2006,c.24,s.1; 2006,c.24,s.3.

Mayor

**16.** (1) The mayor or chairperson is the chief executive officer of the council and shall preside at meetings of the council.

Deputy mayor

(2) The mayor or chairperson may appoint a councillor as deputy mayor or vice-chairman who shall, during any absence or illness of the mayor or chairperson, exercise his functions. 1983, c.33, s.17; 1990, c.36, s.3; 2006,c.24,s.1.

Remuneration

**17.** The council may by bylaw provide for payment to the mayor or chairperson and to councillors of

- (a) annual salaries in such amounts as may be specified in the bylaw; and
- (b) such additional amounts as may be specified in the bylaw as allowances for expenses incident to the discharge of their functions.

1983, c.33, s.17; 2006,c.24,s.1.

Official acts

**18.** All agreements, contracts and deeds to which the council is a party and all bylaws made by the council shall be

- (a) sealed with the corporate seal of the municipality; and
- (b) signed by the mayor or chairperson and the administrator.

1983, c.33, s.19; 2006,c.24,s.1.

Wards

**19.** The council may, by bylaw, establish wards for the purposes of municipal elections and shall file a plan and description of each ward with the Minister. 1983, c.33, s.20.

Oaths of office

**20.** The mayor or chairperson and councillors shall before taking office take an oath of office in the form prescribed by the regulations. 1983, c.33, s.21; 2006,c.24,s.1.

- 21.** (1) A council shall hold at least one meeting each year and by resolution fix the date, place and time of regular meetings and the council may hold special meetings at the call of the mayor or chairperson and the mayor or chairperson shall call a special meeting when so requested in writing by not less than half of the councillors for the time being holding office. Meetings
- (2) The quorum at any council meeting is Quorum
- (a) the mayor or chairperson or, in his absence, the deputy mayor or vice-chairman; and
- (b) at least one-half of the councillors then holding office.
- (3) No business shall be conducted at any meeting of a council unless a quorum is present. Absence of quorum
- (4) Meetings of a council shall be open to the public. Public attendance
- (5) Each councillor has one vote. Voting
- (6) The mayor or chairperson shall vote on any matter before council only for the purpose of breaking a tie. Tied vote
- (7) The office of mayor, chairperson or councillors shall be declared vacant upon a resolution of council to that effect if the holder of that office has missed three consecutive meetings of the council without just cause. Office declared vacant
- (8) Where a member of council dies, resigns or becomes disqualified to serve, his seat shall be deemed to be vacant and shall be so declared by the council. 1983, c.33, s.22; 1987, c.49, s.1; 2006,c.24,s.1. Death, resignation, etc.

#### COMMITTEES

- 22.** (1) The mayor or chairperson may appoint standing committees from among the members of the council for such purposes as he may determine. Standing committees
- (2) The council may by resolution appoint special committees, chaired by a council member, for any particular purpose which shall report to the council on the matters committed to them. Special committees
- (3) The council may appoint residents to serve on the special committees referred to in subsection (2). Members
- (4) Meetings of committees may be held behind closed doors. Meetings
- (5) The council may by resolution meet as a committee of the whole. Committee of the whole

Powers	(6) Standing committees, special committees, or committee of the whole may only report and make recommendations to the council.
Decisions to be made by council	(7) Subject to section 36, all decisions affecting the municipality shall be made by the council. 1983, c.33, s.23; 2006,c.24,s.1.
Conflict of interest	<b>23.</b> No member of council shall, subject to section 17, derive any profit or financial advantage from his position as a member of council and, where a member of council has any pecuniary interest in or is affected by any matter before the council, he shall declare his interest therein and abstain from the voting and discussion thereon. 1983, c.33, s.24.

## PART VII

### MUNICIPAL ADMINISTRATION

#### ADMINISTRATOR

Administrator	<b>24.</b> (1) Every council shall appoint an administrator who is not a member of council and who shall be the chief administrative officer of the council.
Dismissal	(2) The council shall not dismiss the administrator except for just cause.
Style	(3) An administrator may be styled as the manager or clerk of the municipality.
Name, etc. to be notified to Minister	(4) The council shall notify the Minister of the name and business address of the administrator. 1983, c.33, s.25.
Staff	<b>25.</b> A council may appoint such other municipal officers as are necessary for the provision of administrative and other services provided by the municipality. 1983, c.33, s.26.
Functions of administrator	<b>26.</b> (1) The administrator shall <ul style="list-style-type: none"> <li>(a) attend all meetings of the council and record in a book, without note or comment, all resolutions, decisions and proceedings of the council;</li> <li>(b) keep the minute books, documents and financial records of the council and maintain a register containing the originals of all bylaws adopted by the council;</li> <li>(c) be the custodian of the corporate seal of the municipality;</li> <li>(d) notify all members of the council of meetings of the council;</li> <li>(e) collect and receive all money of the municipality;</li> <li>(f) open an account in the name of the municipality in a chartered bank or other financial institution approved by the council and</li> </ul>

deposit in that account all money received by him on account of the municipality;

(g) co-sign all cheques of the municipality with the mayor or chairperson or his designate;

(h) as soon as possible after the end of the fiscal year prepare a detailed statement of the finances of the municipality and submit it, when audited, to the council; and

(i) perform such other duties as the council assigns to him.

(2) The administrator may delegate his functions under subsection (1). 1983, c.33, s.27; 2006,c.24,s.1. Delegation

#### AUDITOR

**27.** (1) Subject to subsection (4), every council shall appoint an auditor who shall audit the financial statements of the municipality. Auditor

(2) The auditor shall be a person qualified to practise as a public accountant under the *Public Accounting and Auditing Act* R.S.P.E.I. 1988, Cap. P-28; Qualifications

(3) The auditor shall make a report to the council on the financial statements of the municipality and shall state in his report whether, in his opinion, the financial statements referred to therein present fairly the financial position of the municipality and the results of its operations during the immediately preceding year, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous year. Report

(4) The council of a community may by resolution passed at the annual general meeting dispense with the requirement imposed by subsection (1) to appoint an auditor if the budgeted expenditures of the community are less than the amount prescribed by regulations. Dispensing with audit requirement in communities

(5) Where a resolution referred to in subsection (4) is passed, the administrator of the community shall so notify the Minister in writing. 1983, c.33, s.28. Notice to Minister

**28.** The council shall on or before April 1 in each year submit to the Minister a copy of the financial statements of the municipality, the auditor's report, the approved budget for the current fiscal year and such other information as the Minister may require. 1983, c.33, s.29. Copies to Minister

**29.** Where a council fails or neglects to appoint an auditor as required by section 27 the Minister may appoint an auditor for the municipality and the council shall pay his fees and expenses. 1983, c.33, s.30. Appointment by Minister

### BYLAW ENFORCEMENT OFFICERS

Bylaw enforcement officers	<b>29.1</b> (1) A council of a municipality may appoint any bylaw enforcement officers it considers necessary and may define their duties and fix their remuneration.
Appointment by several municipalities	(2) For greater certainty, a council of a municipality may appoint a person as a bylaw enforcement officer for that municipality notwithstanding that the person is also a bylaw enforcement officer for another municipality.
Reporting	(3) The bylaw enforcement officers of a municipality shall be responsible to and report to the administrator of the municipality. 2006,c.13,s.2.

### PART VIII

#### MUNICIPAL POWERS

Services, existing towns and villages	<p><b>30.</b> The council of a town or village set out in Schedule 1 may provide</p> <ul style="list-style-type: none"> <li>(a) administration of the municipality;</li> <li>(b) fire protection and other emergency services;</li> <li>(c) garbage and refuse collection and disposal;</li> <li>(d) street lighting;</li> <li>(e) recreation;</li> <li>(f) drainage;</li> <li>(g) sewerage collection and treatment;</li> <li>(h) sidewalks;</li> <li>(i) roads, streets, parking and the regulation of traffic;</li> <li>(j) police protection and law enforcement;</li> <li>(k) water distribution and purification;</li> <li>(l) parks;</li> <li>(m) community or regional development;</li> <li>(n) tourist development and promotion;</li> <li>(o) industrial or commercial development and promotion;</li> <li>(p) housing development and promotion;</li> <li>(q) land assembly for municipal purposes;</li> <li>(r) local libraries;</li> <li>(s) assistance to community organizations;</li> <li>(t) community development projects;</li> <li>(u) animal control;</li> <li>(v) signage control;</li> <li>(w) building and standards control;</li> <li>(x) regulation of real property maintenance;</li> <li>(y) regulation of business practices;</li> <li>(z) public transportation;</li> </ul>
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- (z.1) tree preservation and protection;
- (z.2) for the regulation of dangerous or unsightly properties;
- (z.2) black fly and mosquito control.
- (z.3) for the maintenance of order in the municipality, and in particular, for the regulation of noise, loitering, and public nuisances. 1983, c.33, s.31; 1992, c.49, s.2; 1996, c.29, s.1; 2001,c.29,s.3; 2006,c.13,s.3.

**31.** The council of a municipality for which a community improvement committee has been established as set out in Schedule 1 may provide any of the following services:

Services, existing  
community  
improvement  
committees

- (a) administration of the municipality;
- (b) fire protection and other emergency services;
- (c) garbage and refuse collection and disposal;
- (d) street lighting;
- (e) recreation;
- (f) tree preservation and protection;
- (g) black fly and mosquito control. 1983, c.33, s.32; 1992, c.49, s.3; 1996, c.29, s.1; 2001,c.29,s.3.

**32.** A municipality established under section 8, 8.1 or 9 as a town or community may provide such services as may be specified in the order incorporating the municipality. 1983, c.33, s.33; 1991, c.27, s.3.

Services, new  
municipalities

**33.** (1) Where a municipality desires to expand the services provided by the municipality to include any service specified in section 30, it shall apply to the Minister indicating the additional services it desires to provide, the need therefor, the financial implications thereof, and the extent of resident support therefor.

Expansion of  
services

(2) The Minister shall review an application under subsection (1) and make a recommendation thereon to the Lieutenant Governor in Council.

Review of  
application

(3) The Lieutenant Governor in Council may approve or reject the application and where the application is approved he shall, by order published in the Gazette, authorize the municipality to provide such additional services as are specified in the order. 1983, c.33, s.34.

Order

## PART IX

### MUNICIPAL FINANCE

**34.** Subject to section 36, a council is responsible for the financial management of a municipality and shall determine the rate of municipal taxation necessary to provide municipal services. 1983, c.33, s.35.

Financial  
management

**34.1** (1) In this section,

Definitions

accommodation	(a) “accommodation” means the provision of lodging in a tourism establishment;
operator	(b) “operator” means the operator of a tourism establishment;
purchase price	(c) “purchase price” means the price for which accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax;
tourism accommodation levy	(d) “tourism accommodation levy” means the tourism accommodation levy imposed pursuant to this section;
tourism establishment	(e) “tourism establishment” means a tourism establishment, as defined in the <i>Tourism Industry Act</i> R.S.P.E.I. 1988, Cap. T-3.3.
Tourism accommodation levy	(2) The council may impose a levy, to be known as the tourism accommodation levy, on any person who, for a daily charge, fee or remuneration purchases accommodation at a tourism establishment in the municipality.
Rate	(3) The tourism accommodation levy shall be at such rate as may be set by the council but shall not be more than two per cent of the purchase price of the accommodation.
Tourism establishments affected	(4) The tourism accommodation levy may be imposed, as the council may determine, on the purchase of accommodation <ul style="list-style-type: none"> <li>(a) at every tourism establishment in the municipality; or</li> <li>(b) at only those tourism establishments in the municipality that have the minimum number of rental units prescribed by bylaw.</li> </ul>
Use of tourism accommodation levy	(5) The council shall use the tourism accommodation levy imposed and collected pursuant to this section to promote the municipality as a tourist destination.
Grants	(6) Without restricting the generality of subsection (4) and notwithstanding any other enactment, the council may pay such portion of the tourism accommodation levy collected by way of a grant as the council considers appropriate to any organization formed to promote the city as a tourist destination, whether such organization is non-profit or otherwise.
Operator deemed to be agent	(7) Where the tourism accommodation levy is imposed, pursuant to this section, on the purchase of accommodation at a tourism establishment in the municipality, the operator of the tourism establishment is deemed to be an agent of the municipality for the purpose of collecting the tourism accommodation levy and remitting it to

the municipality, and as such the operator shall, in accordance with subsection (8), collect the tourism accommodation levy from the purchaser and remit it to the municipality.

(8) The tourism accommodation levy, whether the price is stipulated to be payable in cash, on terms, by instalments or otherwise, shall be collected at the time of the purchase on the total amount of the purchase price and shall be remitted to the municipality at the times and in the manner established by bylaw made pursuant to subsection (9). Collection of levy

(9) The council may make such bylaws as it considers necessary to implement a tourism accommodation levy and, without limiting the generality of the foregoing, may pass a bylaw to Bylaw

- (a) determine, pursuant to subsection (4), which tourism establishments in the municipality are required to impose and collect the tourism accommodation levy;
  - (b) provide for the forms and records to be maintained by an operator and the information to be recorded therein;
  - (c) provide for
    - (i) the method of the collection of the tourism accommodation levy by the municipality and the remittance of the tourism accommodation levy by an operator, and
    - (ii) any other conditions or requirements affecting the collection and remittance of the tourism accommodation levy;
  - (d) provide for the rate of the tourism accommodation levy that is to be collected including, if so prescribed, a minimum and maximum levy;
  - (e) provide for the method by which a purchase price may be attributed to accommodations that are sold as part of a combination of accommodations, meals and specialized goods or services;
  - (f) provide for the inspection and audit of records maintained by the operator;
  - (g) provide for the imposition of interest charges and penalties for the failure by an operator to collect or remit the levy as required by the bylaw;
  - (h) establish the times at which, and the manner in which, operators are to remit the tourism accommodation levy to the municipality.
- 2006,c.12,s.2.

**35.** The estimates and budget of a municipality shall be fixed on or before April 1 in each year. 1983, c.33, s.36. Budgets

**36.** (1) The council of a community shall prepare annual estimates of all sums required for municipal services for the fiscal year, which shall be presented at the annual meeting of the residents. Communities,  
approval of  
estimates



Services voted separately	(2) The estimate for each service referred to in section 30 or 31 that the council proposes for the year shall be separately voted upon at the meeting referred to in subsection (1).
Voting	(3) Each resident may exercise a vote and the estimates are approved if they receive the approval of a majority of the residents present and voting at the meeting. 1983, c.33, s.37.
Rates	<p><b>37.</b> (1) Following approval of the estimates for any year</p> <p>(a) in the case of a town, by the council;</p> <p>(b) in the case of a community, by the residents,</p> <p>and after crediting the probable revenue from all sources other than taxes, the council may by resolution levy a rate of municipal taxation sufficient to raise the sum required to defray projected municipal expenditures for that year.</p>
<i>Idem</i>	(2) A municipality may levy rates on the basis of user or frontage charges and, where certain municipal services are provided only in certain districts of the municipality, the council may fix a different rate in respect of those districts, and where different rates are fixed, the council shall notify the Provincial Treasurer and send him a copy of the plan designating each tax district.
Notification to Minister	(3) The municipality shall notify the Provincial Treasurer of the rates of municipal taxation levied under this section.
Lien	(4) All municipal rates constitute a lien on the real property on which it is levied until payment is made, which has priority over every claim, privilege or encumbrance of every person except the Crown against that property. 1983, c.33, s.38; 1987, c.49, s.2; 1993, c.29, s.4.
Water and sewerage, corporation	<p><b>38.</b> (1) Where the council of a municipality determines to provide within the municipality sewerage collection and treatment or water distribution and purification pursuant to clause 30(g) or (k) it shall make a bylaw</p> <p>(a) prescribing the name, composition and functions of a corporation to construct, manage, maintain and operate the utility in accordance with the <i>Water and Sewerage Act</i> R.S.P.E.I. 1988, Cap. W-2;</p> <p>(b) requiring the corporation to maintain separate accounts and to prepare an annual financial statement.</p>
Body corporate	(2) A corporation established pursuant to subsection (1) is hereby constituted a body corporate.
User rates and frontage charges	(3) A corporation established pursuant to subsection (1) may levy such user rates or frontage charges as may be approved by the Island Regulatory and Appeals Commission.

(4) User rates or frontage charges levied by a corporation for water or sewerage services constitute a lien on the real property on which it is levied until payment is made, which has priority over every claim, privilege or encumbrance of every person except the Crown against that property, and may be enforced upon application to the Supreme Court for an order for sale of the property. 1987, c.49, s.3; 1991, c.18, s.22 *{eff.}* Nov. 4/91.

Lien

**39.** Where rates are levied by a municipality or a corporation established pursuant to section 38 for water or sewerage services by means of frontage charges, the maximum frontage of any parcel of land in respect of which rates may be levied is five hundred feet if the parcel qualifies for a farm assessment under the *Real Property Assessment Act* R.S.P.E.I. 1988, Cap. R-4. 1987, c.49, s.3.

Maximum frontage upon which rate may be levied

**39.1** For the purposes of this Act, a person along whose lands run sewer or water mains shall be deemed to receive services notwithstanding that such sewer or water mains are not physically connected by lateral lines to any residence, building or other structure situate upon the said lands of such person. 1989, c.9, s.2 *{eff.}* Nov. 1/83.

Service deemed to be received

**40.** The fiscal year of a municipality is from January 1 to December 31. 1983, c.33, s.39.

Fiscal year

**41.** The council of a municipality shall cause

- (a) any surplus in the general fund at the end of a fiscal year to be transferred to the general fund for the next fiscal year or to a reserve fund;
- (b) any portion of a deficit in the general fund at the end of a fiscal year that is not offset by funds from the reserve fund or other surplus funds to be debited against the general fund for the next fiscal year.

1983, c.33, s.40.

Surplus

**42.** During the period from the end of a fiscal year until approval of the estimates for the next fiscal year, the council shall not incur expenditures except those necessary for the day to day administration of the municipality. 1983, c.33, s.41.

Interim expenditure

## BORROWING

**43.** Subject to section 44, a council may raise money by way of loan or the issue of debentures for the purpose of providing the services set out in section 30. 1983, c.33, s.42.

Loans

**44.** (1) The council of a community shall not borrow money for capital expenditure unless the proposed borrowing is approved by the residents at an annual meeting or a special meeting called for that purpose.

Capital expenditure

Borrowing limit	(2) No council may borrow money for capital expenditure if the result of the borrowing would be to increase the debt of the municipality to an amount in excess of ten per cent of the current assessed value of real property in the municipality.
Exceptional circumstances	(3) The amount referred to in subsection (2) may be exceeded in exceptional circumstances with the approval of the Minister.
Interim financing	(4) Nothing in this section precludes a council from borrowing money to be used on an interim basis to finance current operations. 1983, c.33, s.43.

#### RESERVE FUND

Reserve	<b>45.</b> The council of a municipality may establish a reserve fund for <ul style="list-style-type: none"> <li>(a) expenditures in respect of capital projects including the extension or replacement of existing capital works and expenditures in respect of any land, machinery or equipment necessary for the completion of capital projects; and</li> <li>(b) the purchase, depreciation and replacement of machinery and equipment used for municipal purposes. 1983, c.33, s.44.</li> </ul>
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#### SUPERANNUATION SCHEME

Superannuation	<b>46.</b> The council of a municipality may, independently or in conjunction with other municipalities, establish a superannuation scheme for the provision of pensions to municipal employees. 1983, c.33, s.45.
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### PART X

#### MUNICIPAL PROCEDURES

#### ELECTIONS

Qualifications of an elector	<b>47.</b> (1) The qualifications for an elector are that the elector is <ul style="list-style-type: none"> <li>(a) not less than eighteen years of age;</li> <li>(b) a Canadian citizen; and</li> <li>(c) resident in the municipality for a period of six months preceding the date of the election.</li> </ul>
<i>Idem</i>	(2) Only qualified electors may vote in municipal elections.
Offence	(3) Every person who votes in a municipal election knowing that he is for any reason not qualified to do so is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding two years, or both.

(4) No election shall be declared invalid for reason of non-compliance with this Act or as to the taking of the poll, or the counting of votes or by reason of any want of qualification of the person signing a nomination paper, or of any mistake in the use of a form prescribed by regulation if it appears to any tribunal having cognizance of the question that the election was conducted in accordance with the principles of this Act and that the non-compliance or mistake did not affect the result of the election. 1983, c.33, s.46; 1987, c.49, s.4.

Technical irregularity not to affect validity of election

**47.1** (1) Notwithstanding the provisions of subsections 15(2), clause 48(1)(a) and subsection (1) of Schedule 2,

Transitional provision, 1996 elections

(a) the term of office of a mayor, chairperson or councillor elected in the municipal elections scheduled to be held on Monday, November 4, 1996 shall be four years;

(b) the municipal elections that would have been held on the first Monday of November in the year 1999 shall be held on the first Monday of November, in the year 2000.

(2) Nothing in this section applies to a resort municipality governed by section 8.1. 1996, c.29, s.2; 2006,c.24,s.1.

Resort municipality

#### COMMUNITY ELECTIONS

**48.** (1) Election procedures for communities shall be as follows:

Election procedures for communities

(a) every third year the electors of a community shall, on the first Monday in November, at a special election meeting or by election poll elect the chairperson, and then elect the councillors, of the community;

(b) the council shall appoint a returning officer who may be the administrator.

(2) After receiving nominations

Scrutineers

(a) to (c) repealed by 1990, c.36, s.4;

the returning officer shall appoint two electors to act as scrutineers in the election.

(3) The vote shall be conducted by secret ballot.

Voting

(4) Where the community is divided into wards, the election of the councillors of the community shall be by each ward.

Wards

(5) Every elector before voting, if challenged by a candidate, scrutineer or the returning officer with respect to eligibility to vote, must declare his eligibility to vote in the form prescribed by regulation, and if he refuses to do so, shall not be permitted to vote.

Declaration of eligibility

Declaration	(6) Upon completion of the voting, the returning officer in the presence of the two scrutineers shall open the ballot box and examine the ballot papers and proceed to count the votes and shall declare the persons having the greatest number of votes elected.
Resolution of tied vote	(7) Where, upon the counting of the votes, 2 or more candidates for an office have an equal number of votes and both or all of those candidates cannot be elected, the returning officer shall immediately <ul style="list-style-type: none"> <li>(a) write the names of those candidates on separate, identical blank sheets of paper;</li> <li>(b) fold the sheets of paper in an identical manner so that the names are concealed;</li> <li>(c) deposit them in a receptacle and withdraw the number of the sheets necessary to elect the candidates required to be elected; and</li> <li>(d) declare the candidate whose name appears on the sheet withdrawn, to be elected.</li> </ul>
Return of votes polled	(8) The returning officer shall, after the votes are counted, make up a written statement containing the following particulars: <ul style="list-style-type: none"> <li>(a) the number of votes polled by ward; and</li> <li>(b) the names of the persons receiving votes and the number of votes received by each person.</li> </ul>
Filing	(9) The statement shall be signed by the returning officer and witnessed by the scrutineers and shall be filed with the minutes of the meeting.
Seal	(10) The returning officer shall cause a copy of the statement, together with all ballot papers, including rejected and unused ballot papers, to be placed in the ballot box, shall seal the ballot box and shall transmit the ballot box to the administrator who shall retain the ballot box in his custody for the purposes of a recount.
Appointment of chairperson	(11) Repealed by 2006,c.24,s.4.
Recounts	(12) Repealed by 1990, c.36, s.4.
Vacancies	(13) Where a vacancy occurs in the office of a councillor or the chairperson, the administrator shall <ul style="list-style-type: none"> <li>(a) within sixty days, set a date for a special election meeting or an election poll for the purpose of electing a person to fill the vacancy;</li> <li>or</li> <li>(b) determine that the vacancy be filled at the next annual meeting.</li> </ul>
Procedure	(14) A vacancy in the office of a councillor or the chairperson shall be filled

- (a) by conducting an election using the procedure set out in this Act for the election of a council at a special election meeting; or
- (b) by an election poll.

(15) The person elected to fill the vacancy shall serve in office for the remainder of the term of the councillor or chairperson whose office he has been elected to fill.

Term

(16) A councillor or chairperson may resign his office at any time by causing to be delivered to the administrator a declaration to that effect under his hand and witnessed by at least one person.

Resignation

(17) Repealed by 2006,c.24,s.4. 1983, c.33, s.47; 1987, c.49, s.5; 1990, c.36, s.4 *{eff.}* June 16/90; 2006,c.24,s.1, 4.

Vacancy,  
chairperson

**48.1** (1) A special election meeting shall be advertised in accordance with subsection 55(3).

Special election  
meeting

(2) The council may receive nominations

Nominations

- (a) on the prescribed form up to 4:00 p.m. on the nomination day set by the council being a day not more than two weeks preceding the day of the meeting; or
- (b) at the special election meeting, from a nominating committee and from the floor.

(3) The provisions of section 48 apply to the conduct of an election by special election meeting.

Procedure

(4) If within seven days of the date on which an election is held any candidate requests in writing a recount of the votes, the administrator shall appoint a time and place to recount the votes and shall, at the time and place appointed, in the presence of the chairperson and any candidate who desires to be present, proceed to recount the votes in the ballot box. 1990, c.36, s.5 *{eff.}* June 16/90; 2006,c.24,s.1.

**49.** (1) The council of a community may, instead of conducting elections by means of a special election meeting pursuant to section 48, determine that elections in that community shall be conducted by means of an election poll.

Election poll

(2) Where a determination is made under subsection (1), the council shall make a bylaw governing the conduct of an election poll.

Bylaw

- (3) A bylaw made under subsection (2) shall prescribe
  - (a) the location for the poll;

Content of bylaw

(b) for the filing of nomination papers in the prescribed form with the administrator before four o'clock on the Monday two weeks before polling day;

(c) for the preparation and publication of a preliminary list of electors and for the revision of the list;

(d) that the poll be advertised in the prescribed form;

(e) the appointment of scrutineers;

(f) such other matters as the council considers necessary for the conduct of an election poll.

Hours of polling	(4) The hours of polling shall be from 9:00 a.m. to 7:00 p.m.
Recounts	(5) Within seven days of the election poll any candidate may, in writing, demand a recount of votes cast.
Fee	(6) A candidate shall at the time of making the demand pay to the administrator the sum of twenty-five dollars which is not refundable.
Recount	(7) Upon receiving a demand for a recount, the administrator shall request the chief provincial court judge to designate a provincial court judge to appoint a time and place to recount the votes and the judge shall, at the time and place appointed, in the presence of the candidate or his agent and the administrator, proceed to recount the votes.
Determination of result	(8) The decision of the judge on the recount is final.
Application of section 48	(9) The provisions of section 48 apply to the conduct of an election by election poll. 1987, c.49, s.6; 1990, c.36, s.6 <i>{eff.}</i> June 16/90.

#### TOWN ELECTIONS

Election procedures	<b>50.</b> Election procedures for towns shall be as set out in Schedule 2. 1983, c.33, s.48; 1987, c.49, s.7.
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#### EXPROPRIATION

Acquisition of land	<b>51.</b> The council of a municipality, for the purpose of providing any municipal services it is authorized to provide under this Act, may acquire land or any interest in land by purchase, lease, license or expropriation. 1983, c.33, s.49.
Power to expropriate	<b>52.</b> The council shall first negotiate with the owners and occupiers of the land for the acquisition of that land by agreement and, if it cannot acquire the land at an acceptable price by agreement, the council may acquire the land by expropriation. 1983, c.33, s.50.

**53.** (1) The council shall give notice to the owner and occupier of the land proposed to be expropriated that the land is required for the municipal purposes specified in the notice. Notice

(2) A notice under subsection (1) shall include a description of the land and may be served by personal service or by affixing copies of the notice in a conspicuous place on the land in such manner that it may be reasonably expected that the notice shall come to the attention of the owner. Service

(3) The notice shall constitute a submission to arbitration of the question of compensation for the expropriation in accordance with the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16. 1983, c.33, s.51. Effect of notice

**54.** (1) The council and the owner of the land shall each appoint one arbitrator and the arbitrators shall select an umpire. Arbitration

(2) Upon payment or tender to the owner of the amount awarded as compensation pursuant to the *Arbitration Act*, the land or interest therein is expropriated to the municipality. Time of expropriation

(3) A copy of the award and a description of the land shall be registered by the administrator in the registry of deeds for the county in which the land is situated together with a certificate that the award has been paid to the person entitled thereto. 1983, c.33, s.52. Registration

#### ANNUAL COMMUNITY MEETINGS

**55.** (1) The council of a community shall hold an annual meeting of residents for the purpose of discussing all matters affecting the community. Annual meeting of communities

(2) The annual meeting shall be held in March on such day as the council may determine. Date

(3) The administrator shall cause notice of the time, date and place of the annual meeting to be published on at least two occasions in a newspaper circulating in the community and the first of such notices shall be published at least seven days before the date fixed for the meeting. Notice

(4) The chairperson shall preside at the annual meeting and determine all matters of procedure. Procedure

(5) The agenda for the annual meeting shall be determined by the council but shall include the following matters: Agenda

(a) consideration of the financial statements for the preceding year;



- (b) the auditor's report;
- (c) the chairperson's statement;
- (d) committee reports;
- (e) other business;
- (f) approval of estimates;
- (g) projected tax rates for the year.

Concerns of residents

(6) At the annual meeting the chairperson shall allot sufficient time to enable residents to raise and discuss matters of concern to the community. 1983, c.33, s.53; 1990, c.36, s.7; 2006,c.24,s.1.

Special meetings

**56.** (1) The council of a community may hold a special meeting at any time after giving notice in accordance with section 55 indicating the purpose of the meeting.

Business

(2) No business shall be considered at a special meeting unless it is relevant to the purpose for which the meeting is held. 1983, c.33, s.54.

## PART XI

### BYLAWS

General power

**57.** A council may make bylaws that are considered expedient and are not contrary to this or any other Act or regulations for the peace, order and good government of the municipality, the provision of municipal services and any other matter within the jurisdiction of the municipality. 1983, c.33, s.55.

Adoption of codes

**57.1** A council may, and has always been able to, make bylaws under this Part that

- (a) adopt by reference, in whole or in part, and with such changes as the council considers appropriate, any code or standard made by any recognized technical organization; and
- (b) require compliance with any code or standard so adopted.

2006,c,13,s.5.

Penalties

**58.** (1) A bylaw made under this Part may create an offence for the contravention of a provision of any bylaw and may prescribe penalties not exceeding a fine of \$1,500 for such an offence.

Continuing Offence

(2) For greater certainty, a bylaw made under this Part may create an offence for each day that the contravention of a provision of a bylaw continues.

Remedies for breach of bylaw

(3) A bylaw may be enforced and the breach thereof may be restrained by application by a municipality to the Supreme Court and the judge may grant any one or more of the following remedies:

- (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of any bylaw;
- (b) an injunction restraining any person from breaching or continuing to breach any such bylaw;
- (c) an order directing any person to comply with the requirements of any such bylaw and directing that compliance be carried out under the supervision of a named person;
- (d) such other order as the court or judge may determine.

**58.1** (1) An offence against a bylaw shall be prosecuted

- (a) in accordance with the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9; or
- (b) in the case of an offence against a bylaw for which a municipal offence ticket may be issued, in accordance with this section and any bylaw made under subsection (2).

Prosecution of offences against bylaws

(2) Subject to section 58.2, a council may make bylaws

- (a) authorizing the issuance of a municipal offence ticket for an offence against a bylaw;
- (b) authorizing the use of any word or expression on a municipal offence ticket to designate an offence against a bylaw;
- (c) authorizing and providing for the payment of a penalty out of court for any offence against a bylaw charged in a municipal offence ticket; and
- (d) respecting any other matter relating to the use of a municipal offence ticket.

Municipal offence ticket bylaws

(3) The following provisions of the *Summary Proceedings Act*, as amended from time to time, apply with the necessary changes to proceedings to determine if a person has committed an offence against a municipal bylaw for which a municipal offence ticket may be issued:

- (a) sections 3 to 5;
- (b) section 6.1;
- (c) section 7;
- (d) subsections 10(1), (4) to (9), and (11);
- (e) sections 11 and 12.

*Summary Proceedings Act*, application

(4) In applying the provisions of the *Summary Proceedings Act*, the following words and expressions therein have the following meanings:

(a) “enactment” means, unless the context indicates otherwise, a bylaw;

Modifications

enactment

(b) “issuing officer” and “officer” means a person referred to in subsection (6);

issuing officer and officer

offence under an enactment	(c) “offence under an enactment” means an offence against a bylaw;
offence under any provision of an enactment designated by the regulations	(d) “offence under any provision of an enactment designated by the regulations” means an offence against a provision of a bylaw that is designated, by a bylaw made under subsection (2), as an offence in respect of which a municipal offence ticket may be issued;
ticket	(e) “ticket” means a municipal offence ticket;
word or expression authorized by the regulations to designate an offence	(f) “word or expression authorized by the regulations to designate an offence” means a word or expression authorized by a bylaw made under subsection (2) to designate an offence.
Form and contents of ticket	(5) A municipal offence ticket shall be issued in the form prescribed by the regulations and shall include provision for the information, the summons and a record for the person who issues the ticket.
Issuance	(6) Subject to subsection (8), a bylaw enforcement officer, or any other person having responsibility for the enforcement of a provision of a bylaw, who has reasonable and probable grounds to believe and does believe that one or more persons have committed an offence against a bylaw for which a municipal offence ticket may be issued, may issue a municipal offence ticket.
Execution of a municipal offence ticket information	(7) Every municipal offence ticket information shall be signed, and sworn to before a justice of the peace or a provincial court judge, by the bylaw enforcement officer or other person who issues the municipal offence ticket.
Restriction	(8) A bylaw enforcement officer may not issue a municipal offence ticket in respect of an offence against a provision of a bylaw that relates to traffic matters other than the parking of vehicles.
Bylaws enforceable by municipal offence tickets	<p><b>58.2</b> (1) Subject to subsection (2), a bylaw made under subsection 58.1(2) may authorize the issuance of a municipal offence ticket for an offence against a bylaw only if the bylaw relates to</p> <ul style="list-style-type: none"> <li>(a) animal control;</li> <li>(b) dangerous or unsightly premises;</li> <li>(c) the parking of vehicles; or</li> <li>(d) noise or public nuisance control.</li> </ul>
Traffic bylaws	<p>(2) Where a municipality has established a police department, a bylaw made under subsection 58.1(2) may authorize the issuance of a municipal offence ticket for an offence against a bylaw that relates to</p> <ul style="list-style-type: none"> <li>(a) the parking of vehicles; and</li> <li>(b) any other traffic matters. 1983, c.33, s.56; 1987, c.49, s.8; 1993, c.33, s.1 <i>{eff.}</i> Oct. 21/93; 2006,c.13,s.5.</li> </ul>

- 59.** A bylaw is made if
- (a) it is read and formally approved by a majority of the councillors on two occasions at meetings of the council held on different days;
  - (b) after being read a second time it is formally adopted by resolution of the council; and
  - (c) it is signed by the mayor or chairperson and the administrator, and formally declared to be passed, and sealed with the corporate seal of the municipality. 1983, c.33, s.57; 2006,c.24,s.1.
- Procedure
- 60.** Where a bylaw is made under section 59
- (a) the minutes of the meeting shall record the name of the bylaw and the fact that it is passed;
  - (b) a copy of the bylaw bearing the signature of the mayor or chairperson and the administrator and engrossed with the municipal seal shall be entered in the register of bylaws retained by the administrator;
  - (c) a copy of the bylaw certified by the administrator and bearing the municipal seal shall be filed with the Minister within seven days of the day on which the bylaw was passed. 1983, c.33, s.58; 2006,c.24,s.1.
- Record of bylaws
- 61.** Before making any bylaw that affects the general use and enjoyment of residential property in the municipality, the council shall give an opportunity for the expression of opinion by residents by publishing a notice in a newspaper circulating in the area indicating in general terms the nature of the proposed bylaw and the date, time and place of the council meeting at which it will be considered. 1983, c.33, s.59.
- Bylaws affecting the use of residential property
- 62.** The register of bylaws of each municipality shall be available for public inspection at the office of the municipality during its business hours. 1983, c.33, s.60.
- Inspection of register
- 63.** A copy of any bylaw, written, printed or otherwise reproduced, and under the seal of the municipality, certified to be a true copy by the administrator or the mayor or chairperson, shall be received in evidence as proof of its making and of its contents without further proof in any court nor shall any further proof be required of the official character of the signatory or his signature or of the seal of the municipality. 1983, c.33, s.61; 2006,c.24,s.1.
- Evidence
- 64.** Without prejudice to section 57, a council may make bylaws concerning the services it is authorized to provide under this Act and where so authorized
- (a) with respect to matters of municipal administration and in particular
- Specific powers  
administration

- (i) prescribing procedure for meetings of the council, committees, public hearings and annual or special meetings of residents,
  - (ii) for the management of municipal property,
  - (iii) respecting the appointment, remuneration, benefits and functions of employees of the municipality,
  - (iv) the duties of municipal officers and staff;
- fire protection (b) with respect to fire protection and in particular
- (i) fire prevention programs,
  - (ii) fire protection services and equipment,
  - (iii) the management of municipal fire departments;
- garbage (c) with respect to garbage collection and disposal services and in particular
- (i) disposal sites for garbage and offensive wastes,
  - (ii) temporary storage,
  - (iii) municipal clean-up programs;
- recreation and parks (d) with respect to parks, recreational lands, sports facilities and municipal recreational programs;
- drainage (e) with respect to the control of surface water flow, storm drainage and the installation and operation of drainage systems;
- sewerage (f) with respect to the construction and use of sewerage systems and in particular
- (i) controlling discharge into sewerage systems,
  - (ii) setting standards and requirements for connections to sewerage systems,
  - (iii) establishing procedures and cost-sharing formulae for sewer trunk line and lateral line extensions,
  - (iv) setting sewerage user rates,
  - (v) establishing a mandatory maintenance system for septic tanks and tile fields, entering upon private property for inspection and maintenance purposes, limiting the liability of the municipality for damage to private property in the course of inspection and maintenance and setting user rates;
- sidewalks (g) with respect to the use of sidewalks and driveways, providing for cost-sharing of installation and maintenance, requiring snow clearing, and prohibiting obstruction;
- water (h) with respect to the installation, operation and maintenance of piped water systems, and setting standards and cost-sharing formulae for connections and extensions;
- building (i) with respect to minimum building and site development standards providing for development agreements pertaining to site development and servicing;
- street lights (j) with respect to the installation, operation, maintenance and cost-sharing of street lights;

- (k) with respect to the construction of fences and planting of hedges, and establishing height restrictions and traffic safety sight lines at intersections; fences
- (l) with respect to unsightly properties and in particular unsightly property
- (i) setting out the responsibilities of property owners for maintenance of their property and specifying minimum standards for such maintenance,
  - (ii) prohibiting property owners from allowing or causing trash, junk, weeds, derelict vehicles and machines and their parts and other waste materials to accumulate,
  - (iii) requiring action to clean up property and setting out the responsibilities of property owners,
  - (iv) requiring the repair or removal of dilapidated structures and setting out the responsibilities of property owners,
  - (v) concerning temporary storage of materials;
- (m) with respect to the maintenance of order, in the municipality and in particular for regulating noise, loitering, public assembly, disturbances and public nuisances, and for setting curfews for minors; public nuisances
- (n) with respect to animals animals
- (i) regulating the keeping of animals in residential and commercial zones,
  - (ii) controlling animals wandering at large,
  - (iii) for the prevention of cruelty to animals,
  - (iv) establishing animal pounds and prescribing impoundment fees,
  - (v) regulating the ownership of dogs and prescribing licensing procedures and fees,
  - (vi) regulating the location, construction and use of private or commercial kennels,
  - (vii) concerning the functions of an animal control officer;
- (o) with respect to business activity and in particular business
- (i) licensing of taxi cabs, taxi cab drivers and operators of taxi cab services and prescribing fees for licenses,
  - (ii) regulating business hours,
  - (iii) licensing and controlling certain business activities,
  - (iv) regulating the location and use of coin operated machines,
  - (v) concerning the establishment of business improvement districts and the levy of rates to finance projects within a business improvement district to promote business therein;
- (p) with respect to the control and use of vehicles and generally for the purpose of exercising the powers of a traffic authority under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5; traffic

advertising	(q) with respect to advertising and the use, size and location of signs;
street names	(r) with respect to the naming of streets and numbering of buildings;
firearms	(s) with respect to the discharge of firearms within the municipality;
general	(t) generally for the exercise of any power to make bylaws conferred under any other enactment. 1983, c.33, s.62; 1987, c.49, s.9.

## PART XII

### GENERAL

Continuation of existing municipalities	<b>65.</b> (1) Where a town, village or community improvement committee has been incorporated by law and is in existence on the date this Act comes into force, it shall continue as a body corporate as if incorporated as a town or, as the case may be, a community under this Act having the boundaries established by the enactment under which it was incorporated.
Officials and councils	(2) Until new councils are elected pursuant to sections 49 and 51 (a) all elected municipal officials continue to hold office subject to the provisions of this Act relating to the filling of vacancies; and (b) a municipal council constituted under an Act repealed by this Act shall be deemed to continue to be properly constituted for the purpose of this Act notwithstanding the requirements of subsection 15(1) relating to the number of councillors.
Rights preserved	(3) All rights, privileges, obligations, assets and liabilities of a town, village or community improvement committee are unaffected by any change of status consequent to this Act.
Existing bylaws	(4) Subject to subsection (5), bylaws in force in a municipality on the date this Act comes into force remain in effect as if made under this Act except in so far as they are inconsistent with any provision of this Act.
Planning bylaws	(5) Where, before the coming into force of this Act, a municipality has made bylaws respecting any matter referred to in subsection 46(1) of the <i>Planning Act</i> R.S.P.E.I. 1974, Cap. P-6 or any regulations have been made under subsection 46(1) in respect of any community set out in Schedule 1, the bylaws or regulations shall continue in force and shall, subject to subsection (6), for all purposes be deemed to be bylaws made under the authority of section 49 of that Act.
Appeals in planning matters	(6) Repealed by 1994, c.41, s.7.
Clerks	(7) A person holding office as a clerk of a municipality on the date this Act comes into force shall be deemed to have been appointed as the administrator of that municipality for the purposes of this Act. 1983,

c.33, s.63; 1991, c.18, s.22 *{eff.}* Nov. 4/91; 1994, c.41, s.7 *{eff.}* July 28/94.

**65.1** Except as otherwise provided in an agreement entered into by a municipality with the Province concerning the collection of fines, every fine imposed for a contravention of a provision of this Act or of a bylaw of the municipality, is an amount owing to the municipality in which the offence occurred. 2006,c.13,s.6.

Fines

**66.** The members of a council or a committee thereof, the administrator and any other person acting on their instructions or under the authority of this Act, are not personally liable for any loss or damage suffered by any person by reason of any act done or not done by any of them in good faith in the exercise or purported exercise of the powers conferred under this Act. 1987, c.49, s.10; 2006,c.13,s.7.

Liability of council members and officers

**66.1** (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this Act or a bylaw made under this Act.

Obstruction

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine not less than \$200 and not more than \$1,500. 2006,c.13,s.8.

Offence

**66.2** Any prosecution for an offence under subsection 66.1(1) or for an offence against a bylaw may be instituted within one year after the time when the contravention occurred. 2006,c.13,s.8.

Limitation period

**67.** The Lieutenant Governor in Council may make regulations for the purposes of this Act and in particular

Regulations

- (a) for the conduct of plebiscites;
- (b) prescribing forms including the form of a municipal offence ticket and providing for their use;
- (c) prescribing fees;
- (d) respecting municipal election forms;
- (e) respecting transitional arrangements to give effect to an order under subsection 9(1). 1983, c.33, s.64; 1994, c.41, s.8 *{eff.}* July 28/94; 2006,c.13,s.9.

**68.** Notwithstanding the provisions of section 48, Schedule 2 and *An Act to Consolidate and Amend the Act of Incorporation of the Town of Summerside 1903*, being 8 Elizabeth II (1959) c.46, the municipal elections that would, pursuant to those provisions, be held in November 1993 or November 1994 in respect of the following municipalities:

Continuation in office of certain municipal councils

## SCHEDULE 1

### Towns:



Alberton	Borden
Georgetown	Kensington
Montague	Souris
<b>Villages:</b>	
Abrams Village	Bedeque
Cardigan	Central Bedeque
Crapaud	Hunter River
Kinkora	Miminegash
Miscouche	Morell
Mt. Stewart	Murray Harbour
Murray River	North Rustico
O'Leary	St. Louis
St. Peters Bay	Tignish
Tyne Valley	Victoria
Wellington	

**Community Improvement Committees:**

Afton	Alexandra	Annandale-Little Pond-Howe Bay
Belfast	Bonshaw	Brackley
Brudenell	Carleton Siding	Central Kings
Central Lot 16	Clyde River	Darlington
Eastern Kings	Ellerslie-Bideford	Grand Tracadie
Greenmount-Montrose	Hampshire	Hazelbrook
Kingston	Lady's Slipper	Linkletter
Lorne Valley	Lot 11 and Area	Lower Montague
Malpeque Bay	Meadowbank	Miltonvale Park
Nail Pond and Skinners Pond	New Haven-Riverdale	
Northport	North Shore	North Wiltshire
Pleasant Grove	Richmond	Sherbrooke
Souris West	St. Felix	Tignish Shore
Union Road (Queens County)	Valleyfield	West River

1994,c.6, Schedule 2 *{eff.}* Mar. 31/95.

## SCHEDULE 2

### Election Procedures for Towns

Election every three years	(1) Every third year town elections shall be held on the first Monday of November to elect a mayor and council.
Wards	(2) Where a town is divided into wards, town elections shall be conducted by a deputy returning officer and a poll clerk for each ward; and where the wards or any of them are divided into polling divisions, by a deputy returning officer and a poll clerk for each polling division.
Polling divisions	(3) Where a town is not divided into wards, town elections shall be conducted by the returning officer and a poll clerk for the town; but if there are two or more polling divisions, each polling division shall be presided over by a deputy returning officer and a poll clerk.
<i>Idem</i>	(4) The council may establish two or more polling divisions in any town or in any ward thereof.

- (5) The returning officer, deputy returning officers and poll clerks shall be appointed by the council. Appointment of election officials
- (6) Notice of the time and place fixed for nominating candidates, and of the time and place or places of holding the poll, if a poll is granted, shall be advertised in the prescribed form by the town administrator in two consecutive issues of a newspaper having general circulation in the area not less than seven days prior to the nomination day. Notice of nomination
- (7) Every candidate for the office of mayor shall be nominated in writing by two electors of the town, and every candidate for the office of councillor shall be nominated in writing by two electors in the ward for which he is a candidate if the town is divided into wards, and by two electors in the town if the town is not so divided; the consent of each candidate shall be endorsed thereon and thereto annexed. Nomination
- (8) The nomination papers shall be in the form prescribed by regulation. Form
- (9) The fee payable to the town administrator at the time of nomination is \$10 which is refundable to any candidate who receives one-half or more of the votes cast for the candidate elected. Nomination fee
- (10) The nomination papers shall be delivered to the town administrator before 4:00 p.m. on the Monday preceding by two weeks the first Monday of November. Delivery of nomination papers
- (11) If a candidate for the office of mayor or councillor dies after the expiration of the time for nominating candidates and before the closing of the poll, or if elected, dies before taking the oath of office, the council and administrator shall proceed under this Act as if a vacancy had occurred in the office of mayor or councillor. Death of candidate
- (12) Where there are insufficient nominations to fill all of the council positions, those candidates nominated shall be declared elected by acclamation by the town administrator without a poll being taken, at the hour of twelve o'clock noon on the first Monday of November, in the office of the town administrator. Insufficient candidates
- (13) If not a sufficient number of nominations are filed to fill all of the council seats, the town administrator shall fix a second nomination day within fourteen days of the date on which the election would have been held, and if sufficient nominations are filed on the second nomination day, a deferred election shall be held within fourteen days. Second nomination day
- (14) Those nominated to fill the remaining vacancies on the second nomination day shall be declared elected by acclamation by the town Appointment on failure of nominations

administrator at four o'clock in the afternoon on that day and where vacancies continue to exist, the Minister shall appoint persons to fill the remaining vacancies.

- Warrant to hold poll (15) Where an election is to be held, the town administrator shall on the day following nomination day, issue a warrant in the form prescribed by regulation under his hand and the corporate seal of the town, directed to the returning officer directing him to hold a poll, and the returning officer on the day named in the warrant shall open a poll or polls at the time and place therein directed.
- Advance poll (16) In order to permit electors that will be out of the town on the date of the election to vote, the returning officer shall conduct an advance poll on the Saturday eight clear days preceding the election date.
- Conduct (17) The advance poll will be advertised in accordance with subsection (6), and shall be conducted in the same manner as the election day poll except that the town may by bylaw prescribe the hours, being not fewer than three hours in aggregate, during which the advance poll shall be open.
- Declaration (18) Repealed by 1990, c.36, s.9.
- Ballot box (19) The returning officer shall, at the close of an advance poll, seal the ballot box and retain it in his possession until the ballots are opened on polling day.
- Poll hours (20) At all elections under this Act, the poll shall be opened at 9:00 a.m. and shall be kept open until 7:00 p.m. of the same day, and the voting shall be by ballot showing the names of the candidates for each office.
- Oath of office (21) The returning officer and each deputy returning officer before taking office shall take the oath of office in the form prescribed by regulation.
- Idem* (22) Every poll clerk before acting as such shall take the oath in the form prescribed by regulation before the returning officer.
- Preliminary list of electors (23) The town administrator shall, not less than twenty-one days before an election prepare a preliminary list of electors, which shall contain the names of all electors in the town and shall, not less than twenty-one days before an election, post the list in public places in the town where it shall be available for inspection.
- Names added to list (24) Any person who is not on the list of electors may have his name added at any time by declaring in the form prescribed by regulation that he is a qualified elector of the town.

- (25) In any town having more than one ward, an elector shall only vote in the ward in which he is resident. Wards
- (26) Every elector before voting, if so required by any candidate or agent, shall take the oath in the form prescribed by regulation which shall be administered by the returning officer, and any voter refusing to take the oath shall not be permitted to vote. Oath of elector
- (27) The town administrator shall before the poll is opened furnish the returning officer with Election materials
- (a) the list of electors;
  - (b) a sufficient number of ballot papers to supply the electors named in the list, and pencils to mark the ballots, and envelopes to be used with the ballots;
  - (c) a ballot box to receive the ballot papers; and
  - (d) at least three copies of printed directions for the guidance of electors which the returning officer shall, before or at the opening of the poll on the day of polling, cause to be posted up in the compartments of the polling station.
- (28) In case of any town having more than one ward or more than one polling division, all the provisions of this Act relating to polls apply to every poll therein, and where necessary the words “returning officer” shall be read as “deputy returning officer”. References to returning officer include deputy
- (29) The returning officer, the poll clerk, the candidates and their agents, not exceeding two for each candidate, and no others shall be permitted during the election to remain in the room where the votes are given. Persons permitted in poll
- (30) Every person representing himself to be the agent of any candidate shall before acting as such produce his appointment in writing under the hand of the candidate, and shall deliver it to the returning officer, and shall take an oath in the form prescribed by regulation. Agent's oath
- (31) At the hour fixed for opening the poll, the returning officer and the poll clerk shall in the presence of the candidates, their agents or electors as shall be present, open the ballot box, and ascertain that there are no ballot or other papers in it, after which the box shall be locked. Opening the poll
- (32) Each elector being introduced one at a time into the room where the poll is held shall declare his name, which shall be entered in the poll book to be kept by the poll clerk for that purpose, and if it is found on the list of electors, he shall receive from the returning officer a ballot paper on the back of which the returning officer has previously put his initials so placed that when the ballot paper is folded they can be seen without opening it. Voting procedure

Instructions	(33) The returning officer shall instruct the elector how to mark and how to fold his ballot.
Marking the ballot	(34) The elector on receiving the ballot shall proceed forthwith into a compartment of the polling station, and there mark his ballot, making an "X" with a black lead pencil on the ballot paper within the division, or if there is more than one to be elected, within the divisions containing the name, or names of the candidate or candidates for whom he intends to vote, and shall then fold the ballot paper so that the initials on the back can be seen and hand it to the returning officer, who shall without opening it, being satisfied that his initials are on it, in the presence of the elector put it in the ballot box.
<i>Idem</i>	(35) Any elector may vote for one or more of the candidates nominated without voting for all of the candidates nominated.
Delay	(36) Every elector shall vote without delay and leave the polling station as soon as his ballot paper has been put in the ballot box.
Removal of ballot paper	(37) No elector shall be allowed to take his ballot paper out of the polling station or show the same after he has marked it.
Incapacitated elector	(38) The returning officer, on the application of any elector who is unable to read or is incapacitated from any physical cause from voting, shall assist the elector in marking his ballot paper in the manner directed by the elector in the presence of the agent or agents of any candidate and of no other person, and by placing the paper in the ballot box, and the returning officer shall require the elector making the application, before voting, to make oath of his incapacity to vote without such assistance in the form prescribed by regulation.
Impersonated elector	(39) If a person representing himself to be a particular elector named on the list of electors applies for a ballot paper after another person has voted as that elector, the applicant, after taking the oath in the form prescribed by regulation and otherwise establishing his identity to the satisfaction of the returning officer, is entitled to receive a ballot and to vote.
<i>Idem</i>	(40) The name of the elector shall be entered on the list of electors and a note made of his having voted on a second ballot paper issued under the same name.
Poll book	(41) The clerk shall enter in the poll book, opposite the name of each elector voting, the word "voted", as soon as his ballot paper has been deposited in the ballot box and he shall also enter in the same book, "sworn" (or affirmed), opposite the name of each elector, to whom the oath (or affirmation) has been administered, and the words, "refused to

swear” or “refused to affirm” opposite the name of each elector who has refused to take the oath or to affirm.

(42) An elector who has inadvertently dealt with the ballot paper given him so that it cannot be conveniently used, may on delivering it to the returning officer obtain another ballot paper in the place of the one delivered up.

Defaced ballot  
paper

(43) Immediately after the close of the poll the returning officer, in the presence of the candidates or agents if they desire to be present shall open the ballot box and proceed to count the number of votes given for each candidate and in doing so he shall reject

Counting the ballots

- (a) all ballot papers that were not supplied by him and do not have his initials on the back;
- (b) all those by which votes have been given for more candidates than are to be elected; and
- (c) all those upon which there is any writing or mark or which have been torn, defaced or otherwise dealt with by the elector by which he could be identified.

(44) The ballot papers having been counted and a list kept of the number of votes given to each candidate, and of the number of rejected ballot papers, all the ballot papers indicating the votes given for each candidate shall be put into one envelope or parcel, and those rejected and those spoiled and those unused shall be put into different envelopes or parcels, and those envelopes or parcels being endorsed so as to indicate the contents, shall, together with the list of the number of votes given to each candidate, be put back into the box.

Procedure after  
count

(45) The returning officer shall take a note of and decide all objections to any ballot papers found in the ballot box, and such decision shall be final subject to the provisions for a recount.

Objections

(46) The returning officer and the poll clerk shall respectively take the oaths in the form prescribed by regulation and annex the same to his return of the result of the election.

Oaths

(47) The returning officer shall on request deliver to each of the candidates, their agents and in their absence, to the electors present representing the candidates, a certificate of the number of votes given for each candidate and the number of rejected ballots.

Certificate of  
election result

(48) Where, upon the counting of the votes, 2 or more candidates for an office have an equal number of votes and both or all of those candidates cannot be elected, the returning officer shall immediately

Resolution of tie  
vote

- (a) write the names of those candidates on separate, identical blank sheets of paper;

- (b) fold the sheets of paper in an identical manner so that the names are concealed;
- (c) deposit them in a receptacle and withdraw the number of the sheets necessary to elect the candidates required to be elected; and
- (d) declare the candidate whose name appears on the sheet withdrawn, to be elected.

Return of election	(49) The returning officer shall as soon as possible after the count transmit his return in the form prescribed by regulation to the town administrator endorsed on the warrant under which the election was held, that the candidate having the greatest number of votes for the office of mayor has been duly elected, and that the candidate or candidates having the greatest number of votes for the office of councillor has or have been elected, which return is conclusive evidence of the due election of the person or persons therein returned elected, and the regularity and happening of every prerequisite necessary to the holding of that election.
Transmission of election materials	(50) The returning officer shall also transmit to the town administrator with his return ballot papers in separate packages, the ballot box and the list of electors and poll book and any other lists and documents used and required at the election or given him by the town administrator.
Acting returning officer	(51) If during the polling, the returning officer becomes unable through illness or other cause to perform his duties, the poll clerk shall act as returning officer and shall perform the duties of a returning officer and may appoint some other person as poll clerk.
Interference with exercise to vote	(52) No presiding officer, poll clerk, candidate or agent of a candidate, present within the rooms where an election is being held, except as in this Act is otherwise provided shall <ul style="list-style-type: none"> <li>(a) give to any voter a ballot paper;</li> <li>(b) offer to give such voter any advice as to the person for whom he should vote;</li> <li>(c) interfere with the voter in the exercise of his franchise; or</li> <li>(d) divulge to any person the name of the candidate for whom any voter has voted.</li> </ul>
Offence by elector	(53) Repealed by 1990, c.36, s.9.
Vacancies	(54) Where a vacancy occurs on a town council, the town administrator shall within sixty days initiate the election procedure to fill the vacancy and the new councillor shall serve out the remaining term of the councillor or mayor who has vacated the seat.

## MUNICIPALITIES

(55) If a council seat becomes vacant within the six-month period preceding the date of a regular election, the seat may be left vacant. Unfilled vacancies

(56) Any candidate may within seven days of the election, in writing, demand a recount of votes cast. Recounts

(57) A candidate shall at the time of making the demand pay to the town administrator the sum of \$25 which is not refundable. Fee

(58) Upon receiving a demand for a recount, the town administrator shall request the chief provincial court judge to designate a provincial court judge to appoint a time and place to recount the votes and the judge shall at the time and place appointed, in the presence of the candidate or his agent and the administrator, proceed to recount the votes. Recount

(59) The decision of the judge on the recount is final. 1997,c.31; 2006,c.24,s.5. Determination of result