



Towns and Local Service Districts Act:

learnings from the first four months
MNL Symposium, 2025

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Learning Outcomes

- Members will bring valuable information back to their councils regarding municipal decision-making under the new Act,
- Members will obtain insight into key issues in by-law creation and enforcement under the new Act.

Towns and Local Service Districts Act

- In force January 1, 2025
- Repeals and replaces the *Municipalities Act*, 1999

Common Issues

- Mandatory and Discretionary By-Laws
- By-Law Enforcement
- Taxation
- Transition Period
- Council Procedure

Towns as Natural Persons

Part I: Purposes and Powers

- **BROAD** description of the Town Purposes and Town Powers

Purposes of town

3. The purposes of a town are

- (a) to provide good government;*
- (b) to provide services, facilities or other things necessary or desirable for all or part of the town;*
- (c) to develop and maintain a healthy, safe and viable town; and*
- (d) to foster the economic, social and environmental well-being of the town.*

Part I: Purposes and Powers

Natural person powers

4. (1) A town has the capacity, rights, powers and privileges of a natural person except to the extent they are limited by this Act or any other Act.
(2) A town only has the capacity, rights, powers and privileges of a natural person in respect of town purposes.
(3) The powers of a town are vested in and shall be exercised by its town council.

Broad interpretation of powers of town

6. *Recognizing that a town is a responsible and accountable level of government, the powers of a town under this or any other Act **shall be interpreted broadly** in order to provide broad authority to the town council to enable it to govern the affairs of the town as it considers appropriate and to enhance the town council's ability to respond to issues in the town.*

Issue 1: By-Laws

What do these purposes and powers enable?

- Towns are now required to have mandatory by-laws in place for specific items. While there is overlap with the mandatory regulations prepared under s. 414(1) the *Municipalities Act*, towns should complete an audit of every by-law.
- Towns may also have discretionary by-laws which respond to specific town issues.

Mandatory by-laws

s. 7(1) – Town **SHALL** adopt by-laws for...

- (a) **Rules of procedure at town council meetings (NEW)**
- (b) Prohibiting and controlling the use of a source of water that the town council considers to be dangerous to public health;
- (c) controlling and respecting the design, construction, alteration, reconstruction, minimum lot size and occupancy of buildings and classes of buildings and the demolition, removal and relocation and maintenance of buildings;
- (d) **Arrears sales (NEW);**
- (e) subject to the Fire Protection Services Act, the prevention of fire in a town and the inspection of buildings in a town for fire protection services; and
- (f) where the town has a fire department, the control and management of the fire department and the participation of the fire department in emergency activities not related to firefighting or fire prevention.

Discretionary by-laws

- Broad list, including:
 - safety, health and well-being of people and the protection of people and property;
 - public facilities, public works, utilities and improvements;
 - businesses and business activities (including whether to impose a business tax);
 - management and control of local roadways and sidewalks;
 - nuisances, dangerous or unsightly property, pollution and waste in or on public or private property;
 - transport and transportation systems;
 - protection of the natural environment; and
 - parks and recreation.
- Most of these are consistent with council's previous authority to pass regulations under s. 414 (1) of the *Municipalities Act*.

By-Laws

- We urge caution in adopting novel by-laws that are outside of municipal expertise.
- Towns should also consider their ability to enforce the novel by-law, as well and any legal obligations flowing from it and its related legislation.

Issue 2: By-Law Enforcement

Enforcement

- **Towns must have relevant by-law in place before issuing many of the commonly issued orders (no s. 404 equivalent)**
- Instead of limiting categories for which a town council may make an order, section 285 of the Towns Act states that council may issue an order:
 - (a) directing a person to stop doing something or to change the way in which the person is doing something; and
 - (b) direct a person to take an action or measure necessary to remedy the contravention of this Act, the regulations or a by-law

Enforcement

- s. 285 – Removal or demolition orders need a supporting report from architect, engineer, building inspector or fire marshal
- s. 285 – Town costs of carrying out remediation or demolition order constitute a lien on the real property on which it is levied until payment is made in full.

Issue 3: Taxation

Taxes and Fees

- Poll tax is no longer permitted.
- s. 117 - All towns **must** charge real property tax (previously discretionary).
- s. 125 – Business tax is discretionary (previously mandatory)
- s. 129 – May impose “tourist accommodation tax” (NEW)
- Poll tax abolished (3 year transition period only where no previous property tax)

Tourist accommodation tax

- *s. 129. (1) A town council may, by **by-law**, impose a tourist accommodation tax to be paid by guests of tourist accommodations located in the town.*
 - **Tax Rate:** shall not exceed 4% of the daily rate for the tourist accommodation [s. 129. (4)]
 - **Audit and Inspection Powers:** The Town has rights to audit and inspect all documentation and records of an Operator.
 - **Enforcement:** If the tax is not paid, the Town may, (1) disconnect the service of a water system, sewer system, or water and sewer system as provided to the Accommodation on 30 days notice to the Operator; (2) sued as a civil debt due to the Town by the Operator (this can be costly...).
- A town council that imposes a tourist accommodation tax shall use the proceeds of the tax collected for the purposes of tourism.

Arrears Sales

- Longer timelines
- Owner-occupied property **not** exempt
- Appeal right
- S. 146 – Notice of Arrears **shall** be served after 18 months of arrears have accrued
- Mandatory by-law

Tax Exemption and Deferment

- 115. (1) **A person may apply** to a town council for, and the town council may, by a vote of 2/3 of the councillors in office, grant an exemption, remission or deferment of taxes and interest on the taxes, either in whole or in part, for the period of time that the town council determines.

(2) A town council may determine the evidence which it shall require to warrant the exemption, remission or deferment.

Issue 4: Transition

Mind the gap: Transitioning from the Municipalities Act to the Towns Act

- General transitional provision :

s. 304. (1) All regulations, orders and by-laws in force at the date this Act comes into force shall continue in force until repealed or replaced

(2) A decision or order under the former Act shall continue in force and shall be considered to be a decision or order under this Act.

No transition period for arrears sales

- There is no transition provision specific to arrears sales that were commenced under *Municipalities Act* but will be concluded under the *Towns Act*.
- In the situation, where a town decided to set a tax auction pre-2025, but the auction will not occur until 2025, it will be prudent to ensure that the auction complies with the *Towns Act*, and in particular, the new arrears sales appeal mechanism, and that by-laws in respect of arrears of sales are in place.

Issue 5: Council Procedure

Open Meetings of Council

- s. 40. All regular and special meetings of a town council and all meetings of a town council committee shall be open to the public.
- Even committee meetings must be public.

Limited Use of Closed Meetings

- To discuss things like:
 - Protected confidential or personal information
 - Negotiation of contract or land transaction
 - Legal opinions and privileged matters
 - Human resources / labour and employment matters
- Decision-making authority limited to giving instructions.
- Decision must be ratified in open meeting.

Mandatory by-law: Rules of Procedure

- Adopting and following rules of procedure more important than ever.
- Good council procedures will address:
 - Different types of motions (ex: main motions, subsidiary motions, privileges motions, etc.
 - speaking to motions;
 - limiting debate, amending motions, and deferring motions;
 - tabling new business; and
 - conflicts of interests.



Questions?



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