



## NOVA SCOTIA FEDERATION OF MUNICIPALITIES

February 24, 2021

Honourable Brendan Maguire  
Minister of Municipal Affairs  
P.O. Box 216, Halifax, NS B3J 2M6

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*Delivered via Email*

Dear Minister Maguire,

### RE: Appointment as Minister of Municipal Affairs

On behalf of the Board of Directors of the Nova Scotia Federation of Municipalities (NSFM), I would like to congratulate you on your appointment as the new Minister of Municipal Affairs.

As President, I greatly appreciated you reaching out so soon after your appointment, and for your warmth and eagerness to strengthen the relationship between Municipal Affairs and NSFM.

As you know, we are the legislated voice of all 49 municipalities in the province. NSFM has worked for over 100 years on issues that are important to our member municipalities and on improving the lives of Nova Scotians. Our relationship with the Department of Municipal Affairs is key for both of our mandates, and we are extremely excited to begin working on our priorities with you.

As a member-based organization, our direction comes from our membership. They have identified five priority areas that they have tasked the NSFM to advance:

- **Removing the CAP** on property assessment
- Implementing **Extended Producer Responsibility (EPR)** for printed paper and packaging
- Addressing inadequacies in funding levels and the formula for **Municipal Funding**
- Acting to bring legislation to enable **Municipal Modernization** including new governance and collaboration models
- **Funding for Roads**, including equitable funding for towns and former towns for shared arterial and collector roads, and increased funding for J-Class roads.

I am attaching background information on each of these priorities for your reference and I look forward to discussing each of them with you in the near future.

I am also attaching some proposed changes to the MGA that NSFM is hoping to see in the upcoming sitting of the legislature. Thank you for asking that we bring these forward so quickly. We would be happy to provide further context should you wish.

In addition to the proposed priorities, we are asking for your support in the following areas:

- To work with Environment and Climate Change Minister Hon. Keith Irving to introduce **EPR** in the upcoming sitting of the legislature. Extended Producer Responsibility would have a very significant and positive impact for municipalities and the environment in our province.
- To bring forward changes to a municipal **Code of Conduct** in the legislature. DMA(H) did consultation last spring and it is our understanding it is ready to be brought forward when the house sits. This is important for our membership to feel safe and supported in their roles on Council.
- Clarity around **Safe Restart Funding** accountability for our members. We have been advised that some municipalities are hesitant to use this money due to the lack of clarity, slowing both municipal recovery from COVID-19 and in turn delaying economic recovery in our province.
- The Province (through DMA) and NSFM have a **Partnership Framework** that outlines shared priorities and a commitment to working together. The most recent Framework was signed in 2018. It is our hope that we can work quickly to reconfirm that commitment to a working partnership.
- Part of the Partnership Framework includes the **Minister's Roundtable**, a twice yearly meeting of key Ministers with the NSFM Executive. The last meeting was held in September 2020. Generally meetings are held in January and again early fall. It is our hope that scheduling this can be a priority.

Congratulations once again, and thank you for connecting with NSFM so quickly after your appointment. We are here to help and support you in advancing the priorities of municipalities in Nova Scotia.

Sincerely,



Emily Lutz  
President, Nova Scotia Federation of Municipalities

# NSFM Resolutions to the Province

The following five resolutions are submitted by NSFM to the Province for consideration:

- CAP
- Extended Producer Responsibility
- Municipal Funding
- Municipal Modernization
- Roads

These resolutions were voted on by the membership at the NSFM Annual Conference, November 8, 2018 out of a total of 10 possible resolutions considered by the membership. Each resolution was backed by an analysis of the issue, the identification of impacts on municipalities, and proposed actions. While the analysis may not be complete, it was drawn with input from members. During the resolution session with our members, the “therefore be it resolved clauses” were presented, discussed and in some cases revised. The final resolutions are presented below.

## 1. Capped Assessment Program (CAP)

**Issue Identification:** The CAP is a significant issue for municipalities as it unfairly distorts the property tax system. For every dollar one person might save, another person pays, and evidence shows the people who need assistance the most are not necessarily the ones receiving it. It has created a situation where similar houses with similar service can pay significantly different taxes. The CAP is discouraging the building of new homes as well as renovations to existing homes. The CAP program needs to be phased out or eliminated.

**Background:** While the Partnership Framework signed in 2018 includes a commitment to review issues and make recommendations on proposed solutions, there has been no commitment to establish a joint municipal/provincial committee to identify and address the CAP issue.

The Province is looking to municipalities to raise the CAP issue with their residents. NSFM is committed to working with municipalities to increase their education efforts on this issue.

Municipalities recognize any solution will need to support low income property owners and protect against significant increases in assessment.

The Real Estate Association, along with the NS Home Builders Association, the Atlantic Mortgage

Brokers Association, the Real Estate Lawyers of Nova Scotia and the Real Estate Appraisers of Nova Scotia have also requested the Province eliminate the CAP program. NSFAM will be working with this group to explore solutions. In addition to the elimination of the program, other alternatives may be identified that minimize the harm of the CAP. It may be appropriate for a joint request to the Province to consider two or three options. For example, one possible option in addition to elimination of the program would be to increase the rate of at which the CAP applies over time back to its initial rate of 10%. The intent would be to submit a joint proposal to the province with options to address the issues.

**Impact on Municipalities:** While this is a provincial program, municipalities are being asked by more and more residents why they pay more property taxes than their neighbour. New home buyers, whether first time buyers or seniors looking to downsize are faced with higher property taxes than neighbouring homes, even though services are the same. Tax rates in many municipalities are higher than they would be if there were no CAP. Yet setting tax rates has to be done knowing additional hardship may be imposed on those not benefitting from the CAP.

**Proposed Action:** The CAP program is wrong for many reasons and needs to be replaced with a better program that ensures low income home owners are not forced to sell their homes because they cannot afford the property tax.

Several municipalities have requested the opportunity to have a pilot program to demonstrate the impact of removing the CAP program. A resolution is recommended requesting the province allow a pilot program.

## **CAP Resolution**

**WHEREAS** the CAP program distorts the property tax system; and

**WHEREAS** it is not clear the homeowners most in need of property tax relief are the ones benefitting from the CAP program; and

**WHEREAS** municipalities are willing to offer pilot programs that will continue to meet the original objectives of the CAP program though a different approach; and

**WHEREAS** pilot programs can be evaluated to determine intended and unintended impacts of changes; and

**WHEREAS** a study on Municipal Property Taxation in Nova Scotia, by academic experts Harry Kitchen and Enid Slack recommended a phase-out of the CAP program;

**THEREFORE BE IT RESOLVED** the Province work with municipalities and other stakeholders to phase out the CAP program and provide better alternatives to protect low-income homeowners and those experiencing significant increases in residential property assessments; and

**FURTHER BE IT RESOLVED** that the Province enable pilot projects to be undertaken as soon as possible.

## 2. EXTENDED PRODUCER RESPONSIBILITY FOR PRINTED PAPER AND PACKAGING (EPR for PPP)

**Issue Identification:** The Canadian Council of Ministers of the Environment committed to a Canada-wide action plan for extended producer responsibility (EPR) and a national strategy for sustainable packaging in 2019. Nova Scotia municipalities passed resolutions in 2010 and 2014 in support of EPR for printed paper and packaging (PPP). Nova Scotia municipalities spend more than \$25 million a year to collect and process blue bag materials, printed paper and packaging (PPP). Coordinated PPP recycling programs exist in many other provinces, but not in Nova Scotia. In other provinces, these programs are funded by the companies that produce PPP, who incorporate the costs of the recycling programs into their national product pricing.

Because producers build these costs into their national product pricing, Nova Scotia consumers are already paying for the costs of the PPP programs operating in other provinces. But Nova Scotia consumers and municipalities don't receive any benefit for these costs because Nova Scotia has no PPP program. Implementing an EPR program to recycle PPP materials here in Nova Scotia will help to harmonize costs with other provincial EPR programs, and additionally generate a financial benefit of up to \$16 million per year.

Having those who generate the waste be responsible for disposing of it should provide an incentive to generate less waste.

**Background Information:** Nova Scotia does have a few stewardship programs in place for products such as paint, tires and some electronics. There is also a diversion credit system for beverage container deposits which provides a stream of funding for municipalities and which should be maintained. In these specific cases, these programs are paid for by the consumer at the point of sale through the collection of environmental handling fees. The dairy industry also operates an EPR-style program for the recycling of some (though not all) of their containers.

However, the bulk of Nova Scotia recycling programs and services are funded through a combination of municipal taxes and/or the payment of tipping fees. In large part, these are collected through residential, commercial, and industrial property taxes. In the current system, municipalities typically

have very little control over the costs associated with processing and marketing recyclable materials. In recent years, exposure to fluctuations in market conditions for plastic bags and plastic film has caused a noticeable strain on the Nova Scotian recycling system and Nova Scotian municipalities.

In 2015, UNSM held a workshop on EPR which provided information on how the stewardship program might work. Around the same time, concerns from small business and some municipalities were expressed. As a result, the province indicated it would not move on EPR.

The Solid Waste Chairs committee met with the province requesting EPR in 2016. The response from the Department of the Environment indicated a lack of sufficient support from stakeholders to move forward with EPR. The province asked municipalities to take the lead in building a business case and creating the conditions for success.

**Impact on Municipalities:** Solid waste management services continue to be one of the most expensive line items for any Nova Scotian municipality. The total cost of these services for Nova Scotian municipalities in 2017, even after considering revenues from tipping fees and the sale of recyclables, exceeded \$91 million. At a cost of approximately \$94 per capita, Nova Scotian residents are roughly on par with citizens in other provinces for solid waste management costs. However, British Columbia, Saskatchewan, Manitoba, Ontario and Quebec have a form of fiscal relief we do not have: EPR.

There are several grants and programs that assist with the costs of solid waste management in Nova Scotia. In total, this assistance has averaged approximately \$8 million over the past decade. However, in 2017, due to fluctuations in the market price of recyclables and increased return rates, this amount dropped to just over \$6 million. And over this same period, expenses facing municipalities have continued to climb at a pace nearly tripling the overall cost of living, as measured by the consumer price index (CPI).<sup>1</sup>

|   | 2005          | 2015           | % Change |
|---|---------------|----------------|----------|
| Garbage and Collection Costs (all NS)     | \$ 70,115,488 | \$ 109,403,443 | 56.03%   |
| CPI - Canada, All-items (2002 = 100)      | 107           | 126.6          | 18.32%   |
| CPI - Nova Scotia, All-items (2002 = 100) | 108.2         | 129.3          | 19.50%   |

**Proposed Action:** EPR is a regulatory tool designed to drive industry to be financially and environmentally responsible for the end-of-life management of the materials they put into the marketplace. A full EPR model for Nova Scotians will build on the progress that has been made in recycling in Nova Scotia over the past 20 years and will harmonize with existing EPR programs across

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<sup>1</sup> These data are collected from the 2005 and 2015 Annual Reports of Municipal Statistics published by Service Nova Scotia and Municipal Relations (2005) and the Nova Scotia Department of Municipal Affairs (2015).

Canada. An EPR for PPP program for Nova Scotia will save Nova Scotian municipalities millions.

The Solid Waste Priorities Committee has been meeting with municipalities, numerous stakeholders throughout the province and with national businesses. The Committee has developed a framework for an EPR model for PPP based on the following objectives:

- Meet public demand for a sustained and improved NS Recycling system
- Increase efficiency of recycling programs
  - Collection
  - Education
  - Marketing of post-consumer materials
- Reduce the cost of managing solid waste in Nova Scotia
- Incent innovation in packaging design.

The Priorities Committee has developed a proposed model (below) and is consulting with the business community to understand whether this model might work for them, and if not, what would.

- The EPR program should use existing infrastructure and human resources
- Municipalities would have right of first refusal for collection and education
- The program would maintain or improve upon the current level of curbside service
- The program would apply to residential PPP materials
- Time must be allowed for planning and transition
- A transition program would be provided by the Province for municipalities with redundant facilities
- Most small businesses would be exempt, including those:
  - With revenue under \$2 million
  - Supplying less than 1 tonne of PPP to Nova Scotia residents annually
  - With a single storefront in NS and who are not supplied by (or operated as part of) a franchise
  - Producing newspapers (except flyers) and registered charities
- The program would be harmonized with other Canadian EPR programs
- Monitoring and compliance must be in place to ensure a level playing field for businesses

The feedback received, and a proposed model, based on the objectives noted above, will be sent to the province for consideration. It is understood the province will make the final determinations on what the model will be.

This resolution will provide evidence to the province of municipal support.

Moving to an industry-led model may have implications for municipalities who have invested in infrastructure to deal with waste from printed paper and packaging. Assistance in transitioning to the industry-led model should be made available.

### **EPR for PPP Resolution**

**WHEREAS** municipalities have been abiding by the Solid Waste-Resource Management Regulations since 1995; and

**WHEREAS** these regulations hold municipalities solely accountable for proper separation of blue bag materials; and

**WHEREAS** municipalities must manage the risk of rising costs and fluctuating commodity markets for blue bag materials; and

**WHEREAS** municipalities' residential blue-bag recycling programs cost over \$25 million per year and are paid for primarily by municipal taxpayers; and

**WHEREAS** 80% of Canadian consumers live in areas where producers fund PPP programs by incorporating program costs into their national product pricing; and

**WHEREAS** Nova Scotia consumers are already paying the national product prices that support PPP programs in other provinces, but receive none of the benefits because Nova Scotia has no EPR program; and

**WHEREAS** the NSFM has developed a proposed model for EPR for PPP in cooperation with municipalities; and

**WHEREAS** EPR for PPP would significantly decrease both costs and risks associated with municipal curbside recycling programs;

**THEREFORE BE IT RESOLVED** that NSFM request the Province develop legislation and regulations, in support of a full EPR for PPP model as proposed by NSFM in consultation with municipalities and other stakeholders; and

**FURTHER BE IT RESOLVED** that the Province will provide a transition program to assist those municipalities who are left with redundant facilities.

### 3. Municipal Funding – 2017 Resolution

**Issue Identification:** The provincial assistance to municipalities to offset operating costs has been frozen for several years now, while operating costs continue to increase at rates higher than the Consumer Price Index. The analysis to date suggests those municipalities who need financial assistance the most to provide basic services at reasonable costs are not necessarily the ones receiving assistance. The formulas need to be reviewed and changed to assist those with low tax bases and high taxpayer burdens. The total amount provided is also insufficient.

**Background:** The 2017 resolution pointed out the fact the formula and funding under the provincial equalization program (operating grant) had been frozen while a new formula was to be developed. The Partnership Framework signed in 2018 includes a commitment to work collaboratively to address the municipal equalization and provincial grant program. While NSFM continues to take every opportunity to raise this issue with the Minister, the Department of Municipal Affairs is presently undertaking its own work to explore the issue. NSFM recognizes there is a significant challenge if no new monies are allocated to the operating grant program – otherwise any changes would simply move funds from one municipality to another. In the meantime, despite increasing cost pressures the equalization grant has been frozen. While this work needs to continue, immediate financial relief is needed.

Municipalities continue to face increasing cost pressures, many of which are downloaded to them from the Province. Resolutions dealing with cannabis and surplus schools have a significant financial element. In the absence of a new operating grant program, and in the absence of new municipal revenues, a new resolution for 2018 should be put forward, with the aim of bringing some financial relief to municipalities. Four areas were identified: mandatory education, the level of funding in the equalization program; and the need to help municipalities comply with provincial accessibility legislation and the legalization of cannabis.

The issue of mandatory education payments must be addressed. Last year over \$240 million was collected from municipalities through property tax, about 20 per cent of the property taxes collected. The amount increases each year as assessments rise, and there is some evidence to show the share of education costs paid for by property taxes has been increasing over time. For many municipalities, mandatory education payments are one of the top three expenses in their municipal budget.

Education is a provincial responsibility and municipalities have no say in how these payments are spent. While the province has not changed the formula for determining mandatory education payments, payments have continued to rise as assessments rise. Furthermore, when taxpayers default on their property taxes, the municipality remains responsible for their share of the mandatory education payments, which means other property tax payers must pick up the difference - this should be absorbed by the Province. The resolution requests mandatory education payments be frozen at

2017 levels for each municipality, and where taxpayers default on their property taxes, the portion related to mandatory education should be deducted from the amount assigned to the municipality.

The equalization program (operating grant) is intended to help municipalities provide services at a reasonable tax burden. The majority of the funding for the equalization program comes from the NSPI payment in lieu of taxes, not the province. The portion coming from NSPI increases each year. It is not clear if provincial funding is being maintained. At the very least, the amount in the program from the province should be increasing by the consumer price index. Ideally it should be raised to the level where all taxpayers are paying a reasonable amount for basic municipal services.

Provincial legislation on accessibility requires municipalities to establish advisory committees and develop plans to ensure their communities are accessible by 2030. The legislation covers the built environment and includes information as well as other areas that may impact municipalities. The new federal infrastructure program does not appear to include renovation projects for existing facilities to become accessible, unless it is part of a bigger project. Provincial funding to date has been quite limited. Costs will not only be incurred with respect to built assets but could also involve website changes and changes at public meetings to ensure the information can be shared with all persons with disabilities. Municipalities want to comply with the legislation, however costs will become an issue. Financial assistance from the province to support their legislation is needed.

While the full implications of the legalization of cannabis will not be known for some time, the municipalities are incurring costs and continue to bear the brunt of policing costs in the province. With the legalization of cannabis, the province and federal governments have access to a new revenue stream – municipalities do not. Property taxes will not increase as a result of this initiative. In discussions with our police forces, no savings are anticipated – there continues to be policing effort required to control the criminal element with respect to drugs, to shut down illegal operations, and to respond to related nuisance calls. Minor offenses with respect to cannabis have not been aggressively pursued in the last few years. Municipal policing costs are increasing at a significant rate, and this is only going to continue. Sharing the new revenue stream from the legalization of cannabis is the right thing to do.

**Impact on Municipalities:** Municipalities, faced with increasing costs, regulations and responsibilities have only two choices – cut services or raise taxes. Municipalities are required by law to have a balanced budget.

**Proposed Action:** In recognition of the provincial financial situation, municipalities do not expect all of their financial issues to be resolved in the short run. Steps to address inefficient funding need to be taken now. In the short run, the resolution focusses on specific financial requests that address both fairness issues and the need for immediate relief.

## Municipal Funding Resolution

**WHEREAS** operational costs continue to rise due to factors beyond municipal control, and Provincial financial support has not kept pace; and

**WHEREAS** one in five property tax dollars collected by municipalities are transferred to the Province;

**WHEREAS** the legalization of cannabis is creating a new revenue source for both the federal and provincial governments, yet municipalities are incurring a significant portion of the associated costs

**THEREFORE BE IT RESOLVED** that the Province freeze mandatory education payments for each municipality at 2017 levels; and

**FURTHER BE IT RESOLVED** that the Province increase its annual funding for the municipal equalization program by \$20 million over three years, beginning in 2019; and

**FURTHER BE IT RESOLVED** that the Province of Nova Scotia cost share 50/50 in all municipal projects required to comply with the Accessibility Act, if those projects do not receive other funding, beginning in 2019; and

**FURTHER BE IT RESOLVED** that the Province provide municipalities with a substantial share of all the related tax revenues being generated through the sale of cannabis.

## 4. MUNICIPAL MODERNIZATION

**Issue Identification:** As community needs evolve, and technology advances, the opportunities for municipalities to collaborate and work together could lead to enhancements in the quality of life of their citizens. Efficiencies may be found and the ability to do more could be increased. Yet the *Municipal Government Act* supports competition between and amongst municipalities. New tools are needed for those municipalities who want to be more innovative in growing and supporting their communities.

**Background:** The Partnership Framework identified the development of a municipal modernization strategy to support municipal cooperation and regional governance. Included in the concept were changes to the MGA/Halifax Charter; regional planning and minimum planning standards; municipal equalization and provincial grants; and the creation of economic development tools. While this was not a specific resolution in 2017, the Towns Task Force and the Fiscal Review both called for assistance

in supporting greater collaboration.

The Province has recently passed legislation requiring minimum planning standards and this is a positive first step in encouraging municipalities to plan together.

As well, the Province passed legislation supporting a new approach for Windsor and West Hants. This reflects a willingness to support the expressed desires of specific municipalities.

This work needs to continue. Municipalities need more help to explore new ways of working together. Many have identified opportunities and a willingness to work together, but need assistance in facilitating discussions, analyzing options, and developing necessary documents to establish new mechanisms. Staff time is often limited, requiring new positions or backfilling for existing staff. A flexible funding program that would provide targeted assistance, suited to each circumstance, to those willing to develop new approaches would be of great assistance. Where efforts are being made to collaborate, support should also include evaluation of the efforts made and identification of lessons learned, to be shared with others in the future.

**Impact on Municipalities:** Many municipalities are struggling financially to meet the needs of their communities. Staff time is typically fully allocated to maintaining services. Freeing up resources to explore new innovative ways of working with neighbouring municipalities is a challenge and is often impossible.

**Proposed Action:** The province should provide additional resources to the Department of Municipal Affairs in support of this initiative.

### **Municipal Modernization Resolution**

**WHEREAS** municipalities recognize opportunities to accomplish more together and are willing to find new ways of collaborating; and

**WHEREAS** individual municipalities are often limited in resources to appropriately pursue these opportunities; and

**WHEREAS** there may be numerous barriers that hinder collaboration; and

**WHEREAS** all municipalities will benefit from lessons learned in collaborative efforts;

**THEREFORE BE IT RESOLVED** that the Province provide human, material, and financial resources in the 2019 budget or before, to those municipalities willing to collaborate, based on

the specific needs of those requesting assistance.

## 5. Roads – 2017 Resolution

**Issue Identification:** The Service Exchange Agreement in the early 1990's raised issues around the responsibilities and funding for roads without resolving them. Provincial roads in rural municipalities are deteriorating without appropriate maintenance and funding to rebuild. Roads in towns are funded wholly by them, despite the fact the arterial and collector roads within their boundaries are essential to the provincial road network. This creates a significant burden on town budgets. Provincial and municipal responsibilities are lacking in clarity and fairness and funding is insufficient.

**Background:** The Partnership Framework committed the Province to work with municipalities to identify options for an appropriate road network throughout Nova Scotia, supporting safety, economic development and continued viability of communities. To this end, a joint committee is being struck with the Department of Transportation and Infrastructure Renewal (TIR) and will begin work October.

This committee will begin with a review of the current service exchange agreement as well as the agreements between individual municipalities and TIR. It is expected that the key outcome of reviewing these agreements will be a proposal for a new agreement. This new proposed agreement will clarify the ambiguities identified in the old service exchange agreement during the 2017 resolution process and should lay out a plan for addressing road issues.

It is intended that the work of the committee will result in a long-term program that will address municipal issues around roads and transportation. It will assess the issues to determine which should be addressed in the short term and long term, and identify necessary actions and resources required to address the issues. It will develop recommendations based on research and consultation with municipalities. It is intended this committee will be an ongoing forum to discuss the many issues related to roads and transportation.

**Impact on Municipalities:** Rural municipalities hear numerous complaints about provincial roads in their communities. The interpretation of policies and funding seems inconsistent throughout the province, and it appears to many that cost-sharing is a requirement if a road is to be fixed. Even those who are willing to cost-share are frustrated as the amount of provincial funding available is insufficient to meet the demand. Many roads are deteriorating further.

For towns, the issue of funding for provincial arterial roads and collectors is a long-standing one and represents one of the biggest differences between rural and town municipalities. The province has been known to lift the snow plow blade up as the snowplow travels through the town. Roads are a

significant cost for towns.

**Proposed Action:** Immediate financial relief for roads is required in 2019 or before.

**Road Funding Resolution:**

**WHEREAS** Towns are responsible for the cost of maintenance and capital improvements with respect to all roads within their municipal boundaries, including roads of joint benefit to the Province and towns, such as arterial and collector roads, for which the Province does not share costs; and

**WHEREAS** Rural municipalities make financial contributions to the Province for the maintenance of J-Class roads, and there is insufficient provincial funding to maintain these roads; and

**WHEREAS** a strong road network is essential to the Province and its residents for economic, social, educational, and health reasons, and increased investment in roads is required;

**THEREFORE BE IT RESOLVED** the Province provide equitable funding to Towns and Municipalities containing former towns for shared arterial and collector roads in the 2019 Budget or before; and

**FURTHER BE IT RESOLVED** the Province increase its transportation budget for J-Class roads in the 2019 Budget or before; and

**FURTHER BE IT RESOLVED** the Joint Provincial-Municipal Committee on Roads develop a proposed new funding agreement and plan by the end of June 2019.

|   | MGA Section  | Currently  | Proposed   | Rationale   |
|---|--|--|--|---|
| 1 | 117 (2) Tax bills  | “the tax bill must <b>be served personally or mailed</b> to the address shown on the assessment roll or any more current address known to the Treasurer”                                     | Include a provision to provide notification via email, text, or any other method mutually approved by the Municipality and customer  | Canada Post recently terminated ePost contract, which adds urgency to this amendment.<br><br>Modernize to encompass evolution of communication methods. |
| 2 | (3) In this Act<br><br>AND<br><br>23 (1) Council may make policies | <b>Contradictory legal opinions have created ambiguity as to whether a member of the council, who attends a meeting of the council via electronic means, may be counted as present.</b>      | Add a definition of ‘present’ that specifies members of council, who attend a meeting of the council via electronic means, are deemed to be present at the meeting.<br><br>Add a provision that enables electronic attendance at meetings of the council if authorized by council’s procedural policy. | Amend MGA to explicitly enable electronic attendance at meetings of the council.  |
| 3 | 51 (4) Notification for First Reading                              | “The council shall advertise the public hearing at least twice <b>in a newspaper circulating in the municipality</b> , the first notice to appear at least fourteen days before the hearing” | Include a provision permitting municipalities to give notice via their website as an alternative to the newspaper.   | Modernize to encompass evolution of communication methods.  |
| 4 | 78A (3) (d) Commercial rent increase where tax increase            | “Sending it to the tenant by <b>registered mail</b> , in which case notice is deemed to have been given on the third day after the date of mailing”  | Include a provision to provide notification via email, text, or any other method mutually approved by the Municipality and customer  | Modernize to encompass evolution of communication methods.  |

|   |                                 |   |   |  |
|---|---------------------------------|---|---|--|
| 5 | 138 Tax sale preliminary notice | "...the Municipality <b>shall mail</b> to each owner named in the list a preliminary notice setting out the information contained in the list..."   | Include a provision to provide notification via email, text, or any other method mutually approved by the Municipality and customer | Modernize to encompass evolution of communication methods.   |
| 6 | 142 (2) Tax Sale Advertisement  | Notices must be published "in a <b>newspaper</b> circulating in the Municipality"   | Include a provision to post electronically (eg. on the HRM website.)  | Modernize to encompass evolution of communication methods.   |
| 7 | 168 (2) Adoption Procedures     | "At least fourteen days before a by-law is read for a second time, notice of the council's intent to consider the by-law <b>shall be published in a newspaper circulating in the municipality</b> " | Include a provision permitting municipalities to give notice via their website as an alternative to the newspaper.                  | Modernize to encompass evolution of communication methods.   |
| 8 | 166 (b) Service                 | "where the address of the person is unknown, if it is mailed to a tenant or occupant of the land or a copy of the notice is posted in a <b><u>conspicuous place on the premises</u></b> "           | Include a provision permitting alternative to posting on premises where land is remote and inaccessible by road.                    | <p>Municipalities have properties that are remote with no road access.</p> <p>Properties in arrears cannot be put it up for tax sale until a notice is posted.</p> <p>Amend Act to provide ability to post on the road at the beginning of trail leading to remote properties.</p> |

# ELECTRONIC ATTENDANCE AT MEETINGS OF THE COUNCIL

## Issue Description

The *Municipal Government Act* makes references to, but does not define the term 'present', as it relates to attendance at meetings of the council. Technological advancements now enable active participation in meetings via electronic means that do not require the person to be physically present within the council chamber.

## Current Legislation

The term 'present', as it relates to attendance at meetings of the council, is not defined within the *Municipal Government Act*. Contradictory legal opinions have created ambiguity as to whether a member of the council, who attends a meeting of the council via electronic means, may be counted as present.

## Jurisdictional Research

The Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Ontario, Prince Edward Island, and Saskatchewan have amended their respective municipal legislation to enable electronic attendance at meetings of council. Nova Scotia and Quebec are the only provinces that do not explicitly enable electronic attendance at meetings of the council.

## Conclusion

Eight Canadian provinces explicitly enable electronic attendance at meetings of the council via legislation. In all instances, a member of the council who attends a meeting of the council via electronic means is deemed to be present at the meeting.

Given recent technological advances, and the clear direction of other Canadian jurisdictions, it is recommended that the Province of Nova Scotia amend the *Municipal Government Act* to enable electronic attendance at meetings of the council.

## Options

Amend the *Municipal Government Act* by:

1. Adding a definition of 'present' that specifies members of council, who attend a meeting of the council via electronic means, are deemed to be present at the meeting.
2. Introducing a new section that enables electronic attendance at meetings of the council if authorized by council's procedural bylaw.
3. Introducing a new section that enables electronic attendance at meetings of the council with specific requirements set in legislation.

Appendix A

| Province                  | Legislation                     | Applicable Sections   |
|---------------------------|---------------------------------|---|
| Newfoundland and Labrador | <b>MUNICIPALITIES ACT</b>       | <p><b>Meetings</b></p> <p><b>24.</b> (1) The mayor or 2 councillors shall request that the town clerk call and there shall be held, at least once a month, a meeting of the town council to which the public shall be admitted.</p> <p>(2) A meeting called and held under subsection (1) shall be for the dispatch of general business.</p> <p>(2.1) A town council may allow a councillor to participate in a meeting by electronic means where the electronic means enables the councillor to listen to the proceedings and to be heard.</p> <p>(2.2) A councillor participating in a meeting by electronic means is considered to be in attendance at the meeting.</p> <p>(2.3) Subsections (2.1) and (2.2) also apply to meetings held under sections 23 and 213.</p> <p>(3) A town council shall adopt rules of procedure for its meetings.</p> <p>(4) The minister may provide a model set of rules of procedure that town councils may adopt or vary.</p>   |
| Prince Edward Island      | <b>MUNICIPAL GOVERNMENT ACT</b> | <p><b>122. Electronic meeting of council</b></p> <p>(1) Subject to subsection (3), a council meeting may be conducted by electronic means if</p> <ul style="list-style-type: none"> <li>a) authorized by council's procedural bylaw; and</li> <li>b) the council members are unable to meet in person.</li> </ul> <p><b>Idem, council committee</b></p> <p>(2) Subject to subsection (3), a council committee meeting may be conducted by electronic means at any time if authorized by council's procedural bylaw.</p> <p><b>Public meeting by electronic means</b></p> <p>(3) A meeting shall only be conducted by electronic means if</p> <ul style="list-style-type: none"> <li>a) the electronic means by which the meeting is conducted enable, at a minimum, the council and council committee members participating in the meeting to hear and speak to each other;</li> <li>b) notice is given to the public of the meeting, including that it will be conducted by electronic means; and</li> <li>c) where the meeting is a public meeting, <ul style="list-style-type: none"> <li>(i) facilities are provided to enable the public to see and hear the meeting's participants at a place specified in the notice, and</li> <li>(ii) a municipal employee is in attendance at the place specified in the notice</li> </ul> </li> </ul> <p><b>Participation by telephone, etc.</b></p> <p>(4) Where authorized to do so by council's procedural bylaw, a council or council committee member who is unable to attend a meeting of council or the council committee in person may participate in the meeting by telephone or by electronic means that meet the requirements of clause (3)(a).</p> <p><b>Member deemed present</b></p> <p>(5) A council or council committee member participating by telephone or electronic means in a meeting in accordance with this section is considered to be present at the meeting.</p> <p><b>Required information</b></p> |

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|                      |                                    | <p>(6) Where</p> <ul style="list-style-type: none"> <li>(a) a council or council committee member is participating in a meeting conducted by electronic means; and</li> <li>(b) there is a report or recommendation to be considered in respect of a matter before the council or council committee, the council or council committee member shall take part in the debate and voting on that matter only if the member has before him or her a copy of the report or recommendation to be considered. 2016,c.44,s.122</li> </ul>   |
| <p>New Brunswick</p> | <p><b>LOCAL GOVERNANCE ACT</b></p> | <p><b>Electronic Meetings</b></p> <p>69(1) Subject to this section and to a procedural by-law made under paragraph 10(2)(a), it is permitted to use electronic means of communication in a council meeting or a committee of council meeting if it allows members of council to hear and speak to each other and, in the case of a meeting that is open to the public, allows the public to hear the members.</p> <p>69(2) Only a member of council who, at the time of the meeting, is outside of the local government or is physically unable to attend the meeting may participate in the manner referred to in subsection (1).</p> <p>69(3) Except for reasons of disability, a member of council shall not participate in the manner referred to in subsection (1) at more than 25% of the regular council meetings held in a one-year period or at more than four special council meetings held in a one-year period.</p> <p>69(4) A member of council who intends to participate in a meeting in the manner referred to in subsection (1) shall provide sufficient notice to the clerk to ensure that the relevant materials may be sent to the member and to ensure that the appropriate electronic means of communication are available and, if applicable, that the public notice referred to in subsection (7) is given.</p> <p>69(5) A member of council who participates in a meeting closed to the public under subsection 68(1) in the manner referred to in subsection (1) shall, at the beginning of the meeting, confirm that he or she is alone.</p> <p>69(6) A member of council who participates in a meeting in the manner referred to in subsection (1) shall be deemed to be present at the meeting.</p> <p>69(7) If a council meeting or a committee of council meeting is open to the public, use of an electronic means of communication is permitted only if a notice of the meeting is given to the public that includes the following information:</p> <ul style="list-style-type: none"> <li>a) a statement that an electronic means of communication will be used at the meeting; and</li> <li>b) the location where the public may see or hear the meeting.</li> </ul> |

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| Nova Scotia  | <b>MUNICIPAL GOVERNMENT ACT</b> |   |
| Quebec       | <b>MUNICIPAL CODE</b>           |   |
| Ontario      | <b>MUNICIPAL ACT</b>            | <p><b>Electronic participation</b></p> <p>(3.1) The applicable procedure by-law may provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time. 2017, c. 10, Sched. 1, s. 25 (2).</p> <p><b>Same</b></p> <p>(3.2) The applicable procedure by-law shall not provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting which is closed to the public. 2017, c. 10, Sched. 1, s. 25 (3).</p> <p><b>Electronic participation, emergencies</b></p> <p>(3.3) The applicable procedure by-law may provide that, during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the <i>Emergency Management and Civil Protection Act</i>,</p> <p>(a) despite subsection (3.1), a member of a council, of a local board or of a committee of either of them who is participating electronically in a meeting may be counted in determining whether or not a quorum of members is present at any point in time; and</p> <p>(b) despite subsection (3.2), a member of a council, of a local board or of a committee of either of them can participate electronically in a meeting that is closed to the public. 2020, c. 4, s. 1.</p> <p><b>Same, procedure by-law</b></p> <p>(3.4) A municipality or local board may hold a special meeting to amend an applicable procedure by-law for the purposes of subsection (3.3) during any period where an emergency has been declared to exist in all or part of the municipality under section 4 or 7.0.1 of the <i>Emergency Management and Civil Protection Act</i> and despite subsection (3.1), a member participating electronically in such a special meeting may be counted in determining whether or not a quorum of members is present at any time during the meeting. 2020, c. 4, s. 1.</p> |
| Manitoba     | <b>MUNICIPAL ACT</b>            | <p><b>Meeting through electronic communications</b></p> <p>150(1) A council may conduct a meeting by means of an electronic or other communication facility if the facility enables the members to hear and speak to each other and the public to hear the members.</p> <p><b>Participating member deemed to be present</b></p> <p>150(2) A member participating in a meeting conducted by means of a communication facility is deemed to be present at the meeting.</p>  |
| Saskatchewan | <b>MUNICIPALITIES ACT</b>       | <p><b>Meeting through electronic means</b></p> <p><b>125(1)</b> A council meeting or council committee meeting may be conducted by means of a telephonic, electronic or other communication facility if:</p> <p>(a) notice of the meeting is given to the public, including notification of the way in which the meeting is to be conducted;</p>  |

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|                  |                                 | <p>(b) the facilities enable the public to at least listen to the meeting at a place specified in that notice and the administrator is in attendance at that place; and</p> <p>(c) the facilities permit all participants to communicate adequately with each other during the meeting.</p> <p>(2) Members of a council or council committee participating in a meeting held by means of a communication facility are deemed to be present at the meeting. 2005, c.M-36.1, s.125.</p>   |
| Alberta          | <b>MUNICIPAL GOVERNMENT ACT</b> | <p><b>Meeting through electronic communications</b></p> <p>199(1) A council meeting or council committee meeting may be conducted by means of electronic or other communication facilities if</p> <ul style="list-style-type: none"> <li>a) notice is given to the public of the meeting, including the way in which it is to be conducted,</li> <li>b) the facilities enable the public to watch or listen to the meeting at a place specified in that notice and a designated officer is in attendance at that place, and</li> <li>c) the facilities enable all the meeting's participants to watch or hear each other.</li> </ul> <p>(2) Councillors participating in a meeting held by means of a communication facility are deemed to be present at the meeting. 1994 cM-26.1 s199</p>   |
| British Columbia | <b>COMMUNITY CHARTER</b>        | <p><i>Electronic meetings and participation by members</i></p> <p><b>128</b> (1) If this is authorized by procedure bylaw and the requirements of subsection (2) are met,</p> <ul style="list-style-type: none"> <li>a) a special council meeting may be conducted by means of electronic or other communication facilities, or</li> <li>b) a member of council or a council committee who is unable to attend at a council meeting or a council committee meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities.</li> </ul> <p>(2) The following rules apply in relation to a meeting referred to in subsection (1):</p> <ul style="list-style-type: none"> <li>(a) the meeting must be conducted in accordance with the applicable procedure bylaw;</li> <li>(b) the facilities must enable the meeting's participants to hear, or watch and hear, each other;</li> <li>(c) for a special council meeting referred to in subsection (1) (a), <ul style="list-style-type: none"> <li>(i) the notice under section 127 (2) [<i>notice of special meetings</i>] must include notice of the way in which the meeting is to be conducted and the place where the public may attend to hear the proceedings that are open to the public, and</li> <li>(ii) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place;</li> </ul> </li> <li>(d) for a meeting referred to in subsection (1) (b), except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.</li> </ul> <p>(3) Members of council or a council committee who are participating under this section in a meeting conducted in accordance with this section are deemed to be present at the meeting.</p> |
|                  | <b>LOCAL GOVERNMENT ACT</b>     | <p><i>Electronic meetings and participation by members</i></p>  |

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|  |  | <p><b>221</b> (1) If permitted under subsection (3), a board meeting or a board committee meeting may be conducted by means of electronic or other communications facilities.</p> <p>(2) Members of the board who are participating under this section in a meeting conducted in accordance with subsection (1) are deemed to be present at the meeting.</p> <p>(3) The Lieutenant Governor in Council may make regulations permitting meetings under subsection (1) and prescribing conditions, limits and requirements respecting such meetings.</p> |
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