

MUNICIPAL LEGISLATION REVIEW

PUBLIC CONSULTATION DISCUSSION GUIDE

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CHAPTER 1: INTRODUCTION

Municipalities are the government level closest to people in communities. They provide front-line services like public transportation, garbage collection, and recreation facilities. They also deal with other local issues like fixing local roads and collecting property taxes.

All Ontarians want strong, vibrant communities where they can live, work and raise families. That means Ontario municipalities need to be financially sustainable, open and accountable. That's why we want to ensure they are using, and have in place, the tools and powers to make that happen.

WHAT IS BEING REVIEWED?

Ontario is reviewing three key elements of Ontario's municipal legislative framework: the Municipal Act, the City of Toronto Act, and the Municipal Conflict of Interest Act.

The government is required by legislation to review the Municipal Act and City of Toronto Act every five years. The government is reviewing these Acts at the same time, along with the Municipal Conflict of Interest Act.

We want to hear from municipalities, organizations, elected officials, experts, and Ontarians in every part of the province about how this legislation might be improved. We are interested in all suggestions. Based on what we've heard to date from members of the public, municipalities and other interested groups, there are three main themes that this review will focus on:

- 1. Accountability and Transparency;**
- 2. Municipal Financial Sustainability; and**
- 3. Responsive and Flexible Municipal Government.**

This discussion guide is your chance to have your say about these themes and to share your ideas on these important pieces of legislation.

MUNICIPALITIES IN ONTARIO

There are 444 municipalities in Ontario, ranging from large urban centres to small, rural towns with very small populations. Many factors, such as whether a municipality is part of a county or regional government, can influence how a municipality is governed and how it delivers services.

In Northern Ontario, most of the population lives in municipalities, but most of the land mass is "unorganized territory" – areas of the province without municipal organization. In some of these areas, local services boards and local roads boards deliver basic community services to

residents. Because of this diversity, the needs, priorities and capacity of municipalities in the province can vary widely.

The Municipal Act and the City of Toronto Act (for Toronto) provide the primary legislative framework, setting out the roles, responsibilities and powers for Ontario's municipalities. However, municipalities also get their responsibilities and powers from over 100 provincial acts, such as: the Highway Traffic Act, the Police Services Act, the Ambulance Act and the Ontario Heritage Act.

MUNICIPAL LEGISLATION REVIEW: GOALS

We want to ensure our local governments remain strong and financially-sustainable, and that they have the tools to be flexible, responsive and accountable to the people they serve.

While the government's view is that these pieces of legislation are generally working well, the government regularly receives suggestions for improvement from municipalities, stakeholders, and the public. The Ministry of Municipal Affairs and Housing (MMAH) will consider all suggestions for change as part of this review. Issues raised that are outside the scope of this review or outside the scope of the ministry will be shared with the appropriate area of the provincial government for future consideration.

WAYS TO GET INVOLVED

We want to hear your concerns and suggested solutions on the Municipal Act, the City of Toronto Act and the Municipal Conflict of Interest Act. We want to hear what is working, what could work better, and your innovative ideas for addressing challenges together.

There are a number of ways to share your feedback:

Online Discussion Guide: access this discussion guide online at ontario.ca/provincialmunicipalreview and complete the discussion questions on one or more themes.

E-mail: e-mail your suggestions for changes to the legislation, or any other comments or questions you may have about the reviews, to municipalreview@ontario.ca.

Mail: send a written submission with your suggestions for changes to the legislation, or any other comments to:

Municipal Legislation Review
Ministry of Municipal Affairs and Housing
Local Government Policy Branch
777 Bay Street, 13th Floor, Toronto, ON M5G 2E5

If you want to share your views on the Municipal Elections Act, which is also under review, please see ontario.ca/municipalelections.

USER INFORMATION

To help us make the most effective use of your comments, please consider identifying your municipality or, if you prefer, your geographic region of the province (for example, southwestern Ontario) or whether you live in a rural or urban area.

If you are providing comments on behalf of an organization, please provide its name. If you are providing comments on behalf of a municipality, please provide its name and indicate whether the submission has been endorsed by a council resolution.

Your responses may be used for the purposes of the ministry's consultation process. Please note the ministry may summarize and share them, including with other ministries and the public. Names of organizations and persons who indicate an affiliation may also be shared.

Please do not provide any additional personal or identifying information such as opinions about individuals or names and addresses as part of your response.

CHAPTER 2: OVERVIEW OF THE ACTS

MUNICIPAL ACT OVERVIEW

The Municipal Act gives municipalities a variety of powers, both broad and specific, so that they can govern, deliver services, and effectively serve their residents.

The current act came into force in 2003, and the last review was completed in 2006.

Part 1 (General – ontario.ca/cafy) includes the purposes of municipalities, key definitions, and general provisions. It requires the Ministry of Municipal Affairs and Housing to initiate a review of the act every five years. Part 1 also commits to ongoing consultation between the province and municipalities through the memorandum of understanding (MOU) between the province and the Association of Municipalities of Ontario (AMO).

Part 2 (General Municipal Powers – ontario.ca/cafz) establishes key municipal powers, including natural person powers and broad powers. Natural person powers allow municipalities to act like an individual or a corporation. For example, they can enter into a contract or hire staff. Broad powers provide municipalities with authority to pass bylaws in a wide range of areas, subject to certain limits, including:

- Governance structure of the municipality and its local boards
- Financial management of the municipality and its local boards
- Economic, social and environmental well-being of the municipality
- Health, safety and well-being of persons

Part 2 also sets out how municipalities can delegate municipal powers to local bodies, such as advisory committees or community councils, to assist with local decision-making. The act establishes rules such as what powers can and cannot be delegated.

Part 3 (Specific Municipal Powers – ontario.ca/caf1) provides specific rules and provisions for certain municipal powers (some of which are affected by other ministries' legislation). For example, there are specific provisions in Part 3 for:

- Highways
- Transportation
- Waste Management
- Public Utilities
- Culture, Parks, Recreation and Heritage
- Drainage and Flood Control
- Parking
- Economic Development
- Closing of Business Establishments
- Health and Safety

- Natural Environment
- Animals
- Structures, including fences and signs

Part 4 (Licenses – ontario.ca/caf3) sets out business licensing powers of municipalities (for example, concerning tow trucks, taxis). This part also gives the municipality authority to require a person to pay an administrative penalty to the municipality if they fail to comply with any part of a licensing system.

Part 5 (Municipal Reorganization – ontario.ca/caf4) deals generally with municipal restructuring (annexations, amalgamations, etc.) and other kinds of organizational changes at the local level. This includes changing municipal names, transferring powers between tiers, establishing municipal corporations and municipal service boards, and establishing or changing wards. Part 5 also includes provisions respecting municipal changes to certain local boards and respecting business improvement areas.

Part 5.1 (Accountability and Transparency – ontario.ca/caf5) includes provisions about establishing codes of conduct for members of municipal council and many of their local boards. Municipalities may also choose to appoint local integrity officers: an Integrity Commissioner, Ombudsman, Lobbyist Registrar and Auditor General. For more information on accountability and transparency provisions of the Municipal Act and the City of Toronto Act and to share feedback, please see Chapter 3 of this Guide.

Part 6 (Practices and Procedures – ontario.ca/caf6) sets out roles, responsibilities, rules and processes for municipal councils and key staff members including the clerk and chief administrative officer (CAO). Part 6 includes rules about the conduct of council and local board meetings and the public's right to attend them. Most council and local board meetings are required to be open to the public (with certain allowed exceptions). Part 6 also has requirements on quorum, council member eligibility and vacancies from office, and records retention. Under Part 6, municipalities are required to have policies on certain matters, including the sale and other disposition of land, hiring employees, procurement of goods and services and public notice.

Parts 7-13 (along with Part 3 sections 106-110, and other sections – ontario.ca/caf7) contain many of the rules and procedures for financial and administrative matters such as budgeting, financial reporting, fees and charges, debt and investment, and the administration and collection of property taxes. For more information on financial and administrative provisions of the Municipal Act and the City of Toronto Act, and to share feedback, please see Chapter 4.

Part 14 (ontario.ca/caf8) deals with enforcement of municipal bylaws, including offences and penalties, powers of entry, general enforcement powers, municipal orders and remedial actions, and court orders to close premises. Part 14 includes provisions on establishing a system of fines for offences for contravening a bylaw, with rules on minimum and maximum fine amounts, and rules concerning special fines.

Parts 15-18 (ontario.ca/caf8) contain municipality-specific, technical, transitional, and miscellaneous provisions, including provisions on regulations and municipal liability.

CITY OF TORONTO ACT OVERVIEW

The City of Toronto Act is the counterpart legislation to the Municipal Act (which applies to all other municipalities in Ontario) for the City of Toronto (ontario.ca/cagb). It creates the legal framework for the roles, responsibilities and powers for the City of Toronto and its local bodies, such as city boards or committees.

The City of Toronto Act is similar to the Municipal Act, but there are some particular differences that recognize Toronto's status as Ontario's largest municipality. These include:

- 1) The City of Toronto has broad authority to levy taxes in addition to property taxes, beyond those available to other Ontario municipalities. The City's authority in this area is subject to specific limitations. For example, the City may not put in place taxes on personal or corporate income, gasoline or sales taxes.
- 2) The City of Toronto is required to have a Code of Conduct for council and members of certain local boards, as well as an Integrity Commissioner, City Ombudsman, Auditor General and a Lobbyist Registry. In other municipalities, appointing these officers is optional.
- 3) The City of Toronto has specific authority to require and govern the construction of green roofs.
- 4) The City of Toronto's long-term debt is not subject to a provincial Annual Repayment Limit, in recognition of the City's internal capacity to determine its own appropriate level of debt.
- 5) The City of Toronto's wholly-owned land development corporation, Build Toronto, has special powers to incorporate corporations.

The City of Toronto Act came into force in 2007, and the last review took place in 2009.

MUNICIPAL CONFLICT OF INTEREST ACT OVERVIEW

The Municipal Conflict of Interest Act (last substantially amended in 1983) sets out rules to help ensure that municipal council members and members of local boards (including school boards and police services boards) do not participate at meetings when their council, committee or local board considers a matter in which the members have a pecuniary (i.e. financial) interest (ontario.ca/cagc).

For more information on conflict of interest rules for municipalities, and to share feedback, please see Chapter 3 of this Guide.

CHAPTER 3: ACCOUNTABILITY AND TRANSPARENCY

In response to what we have heard from municipalities, the public, and experts, we have made Accountability and Transparency a theme of this review. This chapter of the Discussion Guide outlines the accountability and transparency requirements for municipalities and the tools they have to deliver them. We invite you to provide your feedback on accountability and transparency by answering the questions at the end of this chapter.

The Municipal Conflict of Interest Act sets out some rules for municipal council and local board members that are enforced through the courts. Other accountability and transparency-related rules set out in law include requirements under the Municipal Act and City of Toronto Act, such as open meeting requirements.

In 2014, the province passed the Public Sector and MPP Accountability and Transparency Act. Schedule 9 of the Bill, when proclaimed into force on January 1, 2016, will extend the role of the Ontario Ombudsman to include all municipalities. The intent is to ensure that every Ontarian has access to an ombudsman.

We want to examine the accountability and transparency requirements for municipalities, and the tools for locally-determined integrity frameworks, to ensure they provide a greater benefit and meet the changing needs of municipalities and the public. In this review we want to consider:

- Codes of conduct
- Integrity officers
- Conflicts of interest
- Open meetings

CODES OF CONDUCT

Some municipalities have codes of conduct for members of council and local boards. They may also have other procedures, rules and policies governing the ethical behaviour of those members. It is generally up to a municipality to determine the content of its code of conduct (if it chooses to have one)—for example, a general set of principles, or a more detailed set of rules on specific issues. Because of this, codes of conduct vary from municipality to municipality. Some common issues that codes of conduct address include use of municipal resources, gifts and benefits and conduct at council meetings. As of 2014, many large municipalities have adopted a code of conduct, but most medium sized or small municipalities have not.

It is up to a municipality to determine the complaints process for codes of conduct and many of the rules around its enforcement. Municipalities also have authority to appoint an integrity commissioner to investigate complaints related to the code, though not every municipality

with a code of conduct also has an integrity commissioner. There are two penalties available to council for code of conduct contraventions: a reprimand or a suspension of the member's pay for up to 90 days.

For more information on municipal codes of conduct, please see section 223.2 of the Municipal Act (ontario.ca/cage) and section 157 of the City of Toronto Act (ontario.ca/cagd).

Some municipalities have also developed a code of conduct for municipal staff.

Similar to municipal codes of conduct, codes of conduct for school board trustees are developed by the school board and reflect the norms of behaviour that trustees agree to uphold and respect. Like other codes of conduct, school board codes might cover such matters as acting with integrity, guarding against conflict of interest, complying with legislation, maintaining confidentiality, and respecting the decision-making authority of the board.

DISCUSSION

- Do you know whether your municipality or school board has a code of conduct? If so, does it seem to be working effectively?
- Do you think there should be a greater range of penalties for violating a code of conduct?

[Share your feedback online](#)

INTEGRITY OFFICERS

All municipalities may decide to appoint integrity officers, and Toronto must do so under the City of Toronto Act. The Municipal Act and the City of Toronto Act set out the general responsibilities and functions of the integrity officers, and each municipality determines their specific duties.

These integrity officers are:

- An Integrity Commissioner
- A municipal Ombudsman
- An Auditor General
- A lobbyist registry (related officer is a lobbyist registrar)

If a municipality chooses to put one or more of these officers in place, it can help to increase accountability and transparency at the local level.

Integrity Commissioner

An Integrity Commissioner's role is independent and his or her functions are assigned by council. The commissioner's functions may include conducting inquiries about whether a member of council or a local board has contravened the code of conduct.

If the Integrity Commissioner reports that a member of the council or local board has contravened the code of conduct, the municipality may impose a penalty in the form of a reprimand or a suspension of pay for a period of up to 90 days. The commissioner, who reports to council, may also be tasked with looking at how members of council have applied procedures, rules and policies of the municipality or local board governing the ethical behaviour of members of council and local boards. Some municipalities have also assigned their commissioner with other functions such as providing advice and/or education and training on ethical matters to members of council.

Municipal Ombudsman

A municipal Ombudsman investigates acts, decisions, and recommendations made in the course of the administration of a municipality. A municipal Ombudsman also does this for local boards or certain municipal corporations as specified by the municipality. Toronto is currently the only municipality in Ontario to have an Ombudsman, which it is required to have under the City of Toronto Act. The current Toronto Ombudsman describes her role as "an impartial investigator of residents' complaints about the administration of city government".

Auditor General

An Auditor General may assist council in holding itself and municipal administrators accountable for the quality of stewardship over public funds and achieving value for money in municipal operations. An Auditor General must perform his or her duties in an independent manner.

Lobbyist Registrar and Registry

The Municipal Act authorizes a municipality to establish a public Registry for lobbyists, establish a code of conduct for lobbyists and prohibit former public office holders from lobbying for a designated time period.

DISCUSSION

- Are there gaps in the current municipal accountability and transparency system?
- What kinds of tools would support greater accountability and transparency in local government?

[Share your feedback online](#)

CONFLICTS OF INTEREST

Local members (including councillors and members of local boards) have legal and ethical duties to consider in relation to conflict of interest. Some of these are found in the Municipal Conflict of Interest Act, but other related rules or codes may also apply to local members (for example, in a local code of conduct for councillors).

The Municipal Conflict of Interest Act sets out ethical rules for council and local board members if they have certain pecuniary (financial) interests in a matter that is before their council or board at a meeting. For example, a member might have to declare a pecuniary interest if they own land or a property that is likely to be affected by a council/board decision.

The Municipal Conflict of Interest Act generally requires a local member with a financial interest in a matter that is before their council or board at a meeting to:

- disclose the interest before the matter is considered at the meeting;
- not take part in the discussion or voting on the matter;
- not attempt to influence the voting before, during, or after the meeting; and
- immediately leave the meeting, if the meeting is closed to the public.

As with any legal matter, local members may seek legal advice if they wish to.

The declaration of the member's interest is recorded in the meeting's record (minutes). The public may use meeting records to assist in finding out whether a member declared an interest on a matter.

The Municipal Conflict of Interest Act includes some exceptions. For example, a member would not need to declare a pecuniary interest for an interest in common with electors generally. A proposed property tax increase affecting all property owners in the municipality might be an example of an interest in common with electors generally.

The courts decide whether or not a contravention of the Municipal Conflict of Interest Act has taken place. Any elector in the municipality may apply to a court if he or she feels that a municipal councillor or local board member has violated conflict of interest rules.

If the judge finds that there is a contravention of the Municipal Conflict of Interest Act, the judge must remove the member, unless the judge also finds that the contravention was because of the member's inadvertence or error of judgement.

A judge may also find that other penalties for contravention of the Municipal Conflict of Interest Act apply. These include:

- restitution (i.e. reimbursement of a person who suffered the loss where the contravention resulted in personal financial gain); or

- disqualification from office for up to seven years (which a judge may decide does not apply due to a member's inadvertence or error of judgement).

For more information about the conflict of interest rules for municipalities, please see the Municipal Conflict of Interest Act (ontario.ca/cagc).

DISCUSSION

- How might conflict of interest rules be made clearer for municipal officials and the public?
- Do you think the current rules prevent municipal councillors from participating in municipal decision making too often? Do you feel that your own councillor/board member (e.g. school trustee) has been able to represent your interests at meetings given these conflict of interest rules?
- Do you think municipal councillors need more support to comply with conflict of interest rules? For example, having a municipality make expert or legal advice available to them.
- How could public access to the decision-making process about conflicts of interest be improved?
- What do you think are the appropriate penalties for violating conflict of interest rules?
- Who should enforce municipal conflict of interest rules?

[Share your feedback online](#)

OPEN MEETINGS

Most municipal meetings must be open to the public. There are a limited number of reasons why meetings may be closed to the public. For example, meetings may be closed for discussion of matters that are before the courts, a pending purchase or sale of land, or personal matters about an identifiable individual.

A person may request an investigation of whether a meeting was properly closed to the public. The municipality may appoint an independent investigator who may report with recommendations to council. If the municipality does not appoint an investigator, the Ontario Ombudsman may investigate.

For more information about open meetings requirements, please see section 239 of the Municipal Act (ontario.ca/cagh) and section 190 of the City of Toronto Act (ontario.ca/cagj). Some boards, such as police services, library and school boards have different rules about their meetings, which are found in other legislation. For example, please see ontario.ca/cagk.

DISCUSSION

- Do you think there should be more options for municipal councils to use technology in holding meetings? (e.g., internet video conferences?) Please provide examples.
- Do you think that the public has appropriate access to council meetings? How could municipal council meetings be more transparent?
- Under what circumstances do you think it is appropriate for council to discuss matters in private? (e.g. personal information, security of the municipality)

[Share your feedback online](#)

In addition, we have some general questions regarding the current accountability and transparency framework for municipalities.

DISCUSSION

- Overall, what do you see as the province's role in supporting municipal and local board accountability and transparency? What do you see as your municipality's role?
- How effective are the accountability and transparency requirements in the Municipal Act, City of Toronto Act and Municipal Conflict of Interest Act?
- How might accountability and transparency rules be made clearer for municipal officials, board members and the public?

[Share your feedback online](#)

CHAPTER 4: MUNICIPAL FINANCIAL SUSTAINABILITY

We want to ensure our local governments remain strong and financially sustainable, and that they continue to be accountable, flexible and responsive to the people they serve. We invite your input on topics such as:

- How existing municipal financial tools can be used more effectively
- Whether municipalities have the necessary tools to effectively plan for, prioritize and fund their investments in infrastructure and spending on services
- What barriers municipalities may face in achieving long-term financial sustainability

WHAT IS MUNICIPAL FINANCIAL SUSTAINABILITY?

Municipal financial sustainability can be defined as the ability to match expenditures well with revenues – on both an operating and capital cost basis.

Municipalities are responsible for providing a range of services to Ontarians, including: fire, police, water, garbage, public health, and recreation programs. Municipalities are also responsible for maintaining and expanding public infrastructure, such as roads, bridges, water systems and their local public transit systems. In order to deliver on both responsibilities, municipalities must manage their finances effectively.

This chapter outlines financial management tools and processes contained in the relevant municipal legislation and used by municipalities in Ontario. We invite you to provide your feedback on this topic by answering the questions at the end of this chapter.

MUNICIPAL BUDGETS AND FINANCIAL REPORTING

Municipal governments are expected to deliver services and facilities in a way that is financially sustainable.

The Municipal Act and the City of Toronto Act require municipalities to pass balanced operating budgets each year. While municipalities may borrow over the long term to fund capital expenditures, such as building a new bridge, or installing a new water main, they are generally not allowed to fund operating expenses, such as salaries and wages, fuel or contracted services through borrowing. This helps to ensure that municipalities pay for the expenses that they incur each year, while allowing them the flexibility to spread out the cost of long-term assets.

Municipalities are also required to prepare annual financial statements according to the Public Sector Accounting Board (PSAB)'s recommended accounting principles. Municipalities must publish and make publicly available their audited financial statements for the previous year within 60 days of receiving them. This helps to ensure that municipalities are accountable to their citizens and also to the province.

MUNICIPAL REVENUE SOURCES/FINANCIAL TOOLS

The Municipal Act provides municipalities with financial tools to help them pay for the services they provide, including:

- Property taxes, including special area rates
- User fees and charges
- Local improvement charges
- Fees for licenses, permits and rents
- Fines and penalties
- Debt financing
- Investment income
- Development charges

In addition to these tools, the City of Toronto has broad authority under the City of Toronto Act to implement a variety of municipal taxes, subject to limitations (see below for further information).

Property Taxes

The property tax generates \$17.5 billion across the province and is a municipality's main source of revenue. In order to determine the amount of property tax they need to collect, municipalities first determine their revenue needs as part of their annual budget process. Municipalities then set the tax rates.

A property tax bill is composed of two components: a municipal portion and a provincial education portion. The tax rate and levy for the municipal portion, is set by the municipality (subject to provincial rules) and is based on their revenue needs as part of their annual budget process. The tax rate for the education portion is set by the province. These tax rates, multiplied by the assessed value, results in the tax levies for municipal and education purposes. These amounts added together equal the amount of total property taxes payable.

For example, if a residential property is assessed at \$300,000 and the total tax rate is 0.75 per cent, the total property tax bill would be \$2,250.

Property assessments are determined in accordance with the Assessment Act, which is not within the scope of this legislative review.

Special Area Rates

Municipalities have the authority to impose special area rates to recover the cost of a special service for only a designated area of the municipality. A special service is a service that is not generally provided throughout the municipality, or is provided in a different way or at a different level in other parts of the municipality. Examples of services for which municipalities have used this authority include: public transit, sewer, water and waste collection.

User Fees and Charges

Municipalities have broad authority to impose fees or charges for any service or activity they provide, or for the use of their property. Examples of common municipal fees include: sewer, water, garbage collection, recreation programs and transit. In recent years, many municipalities have adopted user fee policies to bring some of these services closer to cost recovery, particularly in the case of water and wastewater services. These policies also help reduce pressure on the general tax base, freeing up resources for services that are not as amenable to pricing.

Local Improvement Charges

A local improvement is a capital project that a municipality undertakes that provides a benefit to properties in the vicinity, such as sidewalks and sewers. Municipalities can impose local improvement charges on properties that benefit from the project to recover all or part of its cost. This tool allows municipalities to spread the cost of a project over several years to minimize the annual payment property owners have to make.

Licenses, Permits, and Rents

Municipalities also receive revenues from issuing licenses and permits related to specific activities related to, businesses, vendors, trailers and animals. These revenues also include rents charged to use or occupy municipal properties.

Fines and Penalties

This source of revenue includes fines imposed for not complying with municipal bylaws, or provincial regulatory laws. The most common fines are for local parking infractions and offences under the Highway Traffic Act.

City of Toronto Broad Taxation Authority

The City of Toronto Act gives the City of Toronto broad authority to implement a variety of taxes, subject to certain limitations, such as:

- no tax on personal or corporate income;
- no tax on wealth or payroll;
- no tax on gas or hotels; and
- no sales tax, except for taxes on the sale of entertainment, alcohol or tobacco.

Under this authority, the City of Toronto has elected to implement a Municipal Land Transfer Tax and a Third Party Sign Tax.

Any decision to use the taxation authority is solely the decision of City of Toronto Council. The imposition of taxes under this authority is done through a bylaw. If you have questions

regarding the taxes that the City of Toronto has implemented under this authority, please contact the City of Toronto directly.

Grants

Municipalities may receive grants from the province and/or federal government under specific programs.

For example, the Ontario Municipal Partnership Fund (OMPF) is the Province's main unconditional transfer payment to municipalities. In 2015, the Province is providing municipalities with \$515 million in unconditional funding through the OMPF, with over 90% of the grant supporting northern and rural municipalities.

Municipalities receive a significant level of ongoing support from the province in other ways. In 2015, the province is providing municipalities with approximately \$3.7 billion in ongoing support through the provincial upload of social assistance benefit program costs, the Ontario Municipal Partnership Fund, provincial gas tax program, and other ongoing initiatives.

MUNICIPAL CAPITAL FINANCE

To help pay for capital projects and plan future operating budget expenditures, a municipality may use a number of sources of financing, including debt (up to a set limit), investment income, and development charges.

Debt Financing

Generally, unless it first receives approval from the Ontario Municipal Board, a municipality may not incur a long term debt that would require it to use more than 25 per cent of its total annual own-purpose revenues to service that debt and the municipality's other long term debt. It is the municipality's decision to use debt or pay-as-you-go financing.

The debt limit for a municipality is often referred to as the annual repayment limit (ARL). The ARL is calculated using the data that municipalities submit annually through the Financial Information Return to the Ministry of Municipal Affairs and Housing on their long-term liabilities and debt charges. The City of Toronto's long term debt is not subject to an Annual Repayment Limit.

Investment Income

During the year, a municipality may have cash on hand (for example, from reserve funds or interim tax collections) that is not immediately needed. This cash is often invested to earn income.

Development Charges

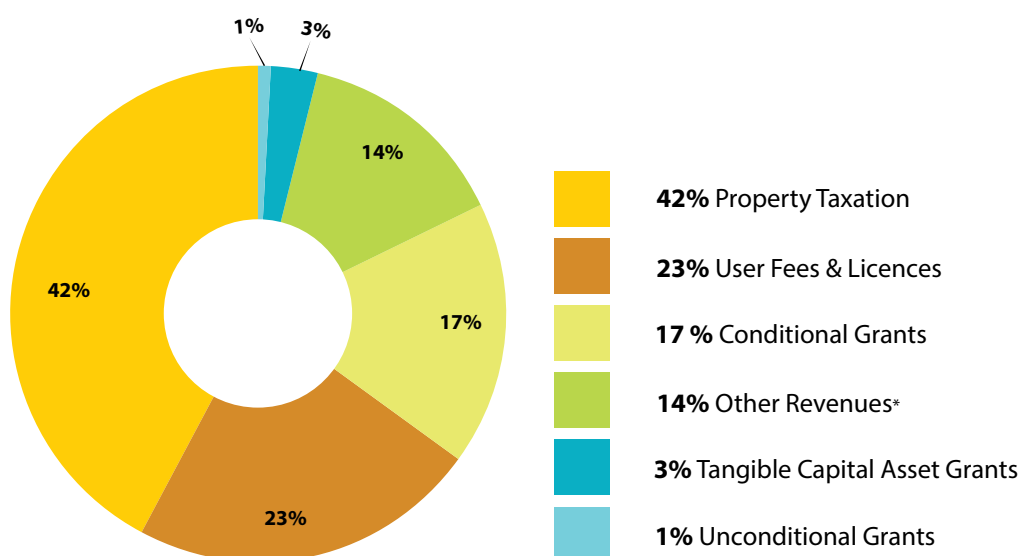
Development charges are fees imposed by municipalities on developers to pay for increased growth-related capital costs (both residential and non-residential) related to items such as water lines or recreational facilities. Development charges are payable when a builder applies for a permit.

The Development Charges Act was reviewed in 2014. That review has concluded and that legislation is not within the scope of this review.

Municipal Expenditures and Revenues

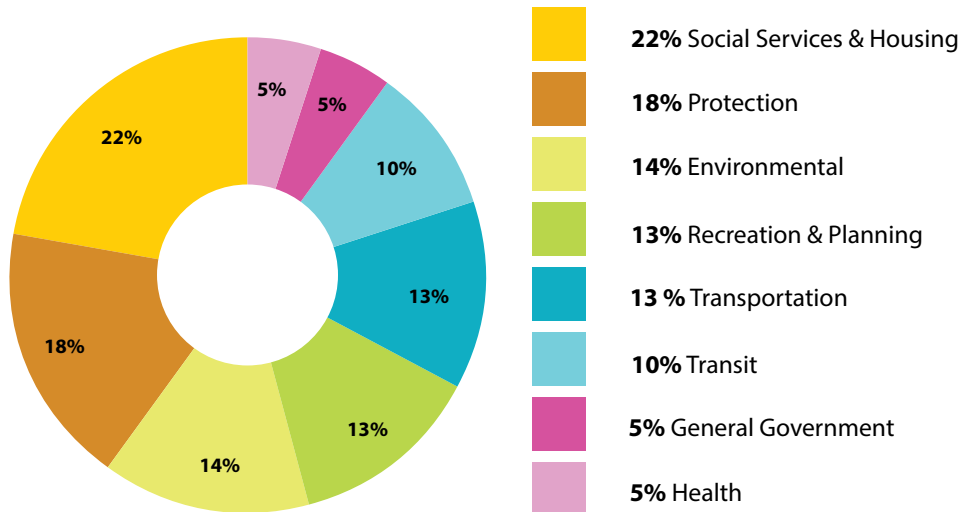
The following charts provide an overview of municipal capital and operating expenditures and how those costs are financed.

2013 Municipal Revenues

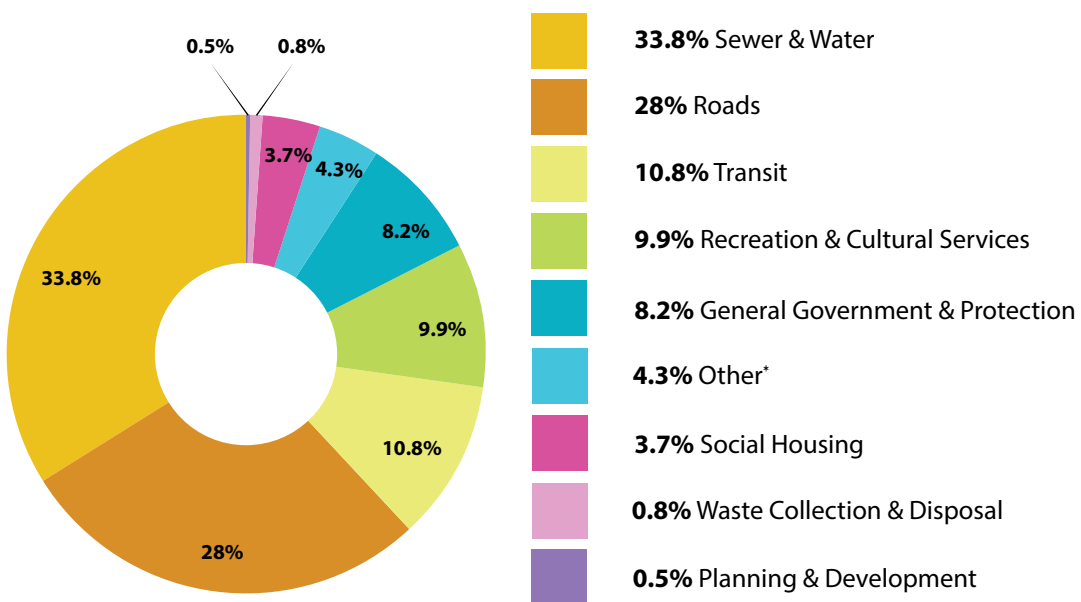


* Other revenues includes: investment income, deferred revenue earned (development charges), donations, revenue from other municipalities, fines, penalties, and City of Toronto Municipal Land Transfer Tax.

2013 Municipal Operating Expenses

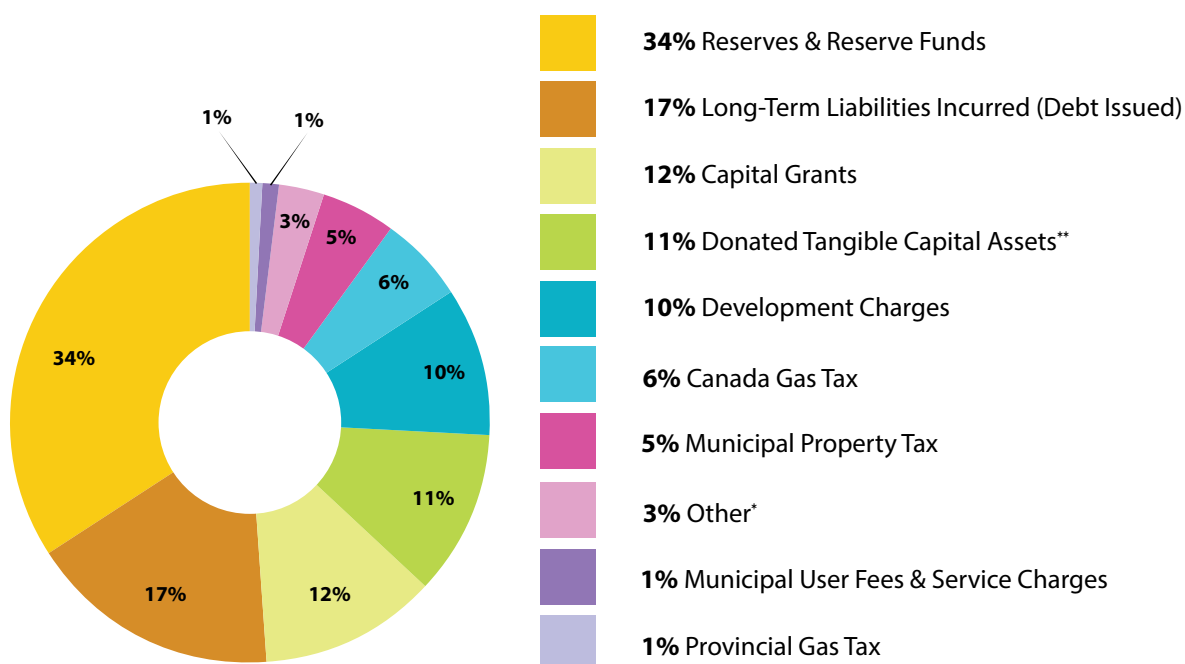


2013 Capital Acquisitions



* Other includes health, social and family services, parking and air transportation.

2013 Sources of Tangible Capital Asset Acquisition Financing



* Other includes contributions from reserves and reserve funds, cash donations, recreational land, other deferred revenues.

** Assets have been contributed to municipalities from developers and private citizens.

OTHER TOOLS

Municipal Services Corporations

Municipalities can create corporations for most services that they provide. Corporations may have advantages and challenges compared to other service delivery mechanisms. Advantages may include their ability to increase capital, pool expenses, expertise and staff resources, and provide better economies of scale. Challenges may include balancing independent operation with accountability to the public. Municipal services corporations also allow municipalities to potentially partner with the private and not-for-profit sectors, educational institutions and Aboriginal communities.

Capital Facilities Agreements

Outside parties (potentially private, not-for-profit, educational and Aboriginal partners among others) can provide facilities related to a number of municipal services on behalf of municipalities through a formal agreement. Some of these are referred to as municipal capital facilities agreements. Under these agreements the municipality can provide financial incentives (property tax exemptions, waivers from fees and charges or the use of municipal

employees) relating to the delivery of those facilities. For example, many municipalities can provide incentives through capital facilities agreements with housing providers for affordable housing in the municipality. That outside service provider may therefore receive similar financial treatment as a municipality would if it provided the facility itself.

Business Incubators

With the approval of the Minister of Municipal Affairs and Housing, municipalities can provide financial incentives to facilitate the development of small business programs (commonly referred to as business incubators) in their communities.

Business incubators provide a means for small businesses to grow their client base, take advantage of shared resources and learn from each other. Incubators often bring together small businesses that reflect local industry in the municipality.

MUNICIPAL ASSET MANAGEMENT PLANNING

Asset management planning can help municipalities make the best possible decisions regarding the building, operating, maintaining, renewing, replacing and disposing of infrastructure assets. It is an integrated, long-term or lifecycle approach to planning, intended to maximize benefits, manage risk and provide satisfactory levels of service to the public in a financially sustainable and environmentally responsible manner.

Municipal asset management plans describe the following:

- the characteristics and condition of infrastructure assets;
- the expected levels of service of the assets;
- the planned actions to ensure the expected level of service; and
- the financing strategies to implement the planned actions.

Ontario municipalities must develop detailed asset management plans to accompany any request for provincial infrastructure funding. It is a best practice for municipalities to do ongoing asset management planning and to integrate it into long-term financial planning.

DISCUSSION

- Do you feel your municipality is able to effectively plan for and prioritize its investments in infrastructure (e.g. roads, bridges, water systems, public transit) and its spending on services (e.g. fire, police, water, garbage, public health, recreation programs)?
- Municipalities have a number of options when deciding how to pay for services and projects (e.g. property tax, user fees). Do you feel your municipality is using the right mix of revenue sources to pay for local services and invest in infrastructure?
- Are there changes to current tools that could contribute to municipal financial sustainability (i.e. ability to meet current and future financial needs)?
- Do regional variations (e.g. economy, geography, demographics) present barriers to municipalities achieving long-term financial sustainability? If so, how can these challenges be addressed in the Municipal Act?

[Share your feedback online](#)

CHAPTER 5: RESPONSIVE AND FLEXIBLE MUNICIPAL GOVERNMENT

INTRODUCTION

The province views municipalities as responsible and accountable governments. As such, the province wants to make sure that municipalities have the powers and the flexibility they need to govern and be creative and responsive in providing services to their communities. In this review, we will consider topics such as:

- Whether municipalities are able to be innovative in how they are providing services to the community;
- How improvements to the Municipal Act and City of Toronto Act can help ensure that municipalities can make the best use of their authority and available tools to respond to climate change and other municipal and provincial priority areas; and
- Whether the Municipal Act and City of Toronto Act have the necessary processes in place to address local representation needs.

DIVISION AND TRANSFER OF POWERS BETWEEN UPPER- AND LOWER-TIER MUNICIPALITIES

In Ontario, there are three types of municipalities: upper- and lower-tier municipalities in a two-tier municipal structure, and single-tier municipalities that are not part of a two-tier system. Upper-tier municipalities are commonly referred to as counties, historically one of the oldest forms of municipal government in Ontario and largely rural; or as regions, which were created in the 1970s by special legislation to cope with the emerging demands of rapidly growing urban centres.

For lower-tier and single-tier municipalities, the term “local municipality” is often used. They may also be known as cities, towns, villages, or townships.

Division of Powers

As discussed in chapter 2, all municipalities have a range of powers, to make decisions that serve the needs of their community. In two-tier municipal structures, the Municipal Act provides specific rules for the division (or sharing) of powers between upper- and lower-tier municipalities ([ontario.ca/cagm](https://www.ontario.ca/cagm)).

In practice, this means that if your municipality operates in a two-tier structure, the upper-tier municipality delivers certain services within the upper-tier boundaries. For example, upper-tier services provided by regional municipalities often include arterial roads, transit, sewer and water systems and waste disposal. Upper-tier services provided by counties often include only arterial roads. Lower-tier municipalities are usually responsible for local roads, garbage collection and animal control.

Transfer of Powers (Service Migration)

While the Municipal Act divides certain powers between upper- and lower-tier municipalities, it allows for the transfer of powers between lower- and upper-tier municipalities as long as certain requirements are met (ontario.ca/cagn).

An upper-tier municipality may make a bylaw to transfer all or part of certain lower-tier powers (from one or more lower-tiers) to the upper-tier. This is referred to as upper-tier service migration, and the bylaw does not come into force unless a “triple majority” vote supports the bylaw, meaning:

- the upper-tier council passes the bylaw by majority vote of all votes on the council;
- the councils of a majority of all the lower-tier municipalities forming the upper-tier municipality pass resolutions supporting the bylaw; and
- the total number of electors in the lower-tier municipalities supporting the bylaw form a majority of all the electors in the upper-tier municipality.

A lower-tier municipality may make a bylaw to transfer all or part of certain upper-tier powers to one or more lower-tiers. The lower-tier service migration bylaw does not come into force unless a “triple majority” vote supports the bylaw, meaning:

- at least half of all the other lower-tier municipalities forming the upper-tier municipality pass resolutions supporting the bylaw;
- the total number of electors in the lower-tier municipalities supporting the bylaw (including the lower tier that made the bylaw) form a majority of all the electors in the upper-tier municipality; and
- the upper-tier council passes a resolution supporting the transfer of power by majority vote of all the votes on council.

Some services that have been transferred from one tier to another tier may be transferred back. For example, public transportation systems, other than highways can be migrated between lower-and upper-tier municipalities. Waste collection can also be migrated between lower-tier and upper-tier municipalities.

Under the current rules, some powers may not be transferred back once they have been migrated. For example, the production, distribution and supply of water can only be migrated from the lower-tier to the upper-tier. It cannot be migrated from the upper-tier municipality to the lower-tier.

DISCUSSION

We want to hear if powers are working well in your communities, including the division and transfer of powers.

- What steps is your council taking to improve the quality of municipal services or to save money in the way municipal services are provided to the community?
- Are you aware of any challenges and/or barriers that may prevent your council from providing municipal services, such as economic development, roads or parks, in a more effective and/or innovative manner?

[Share your feedback online](#)

CLIMATE CHANGE

Climate change is one of the most significant challenges of our time. Ontario released its Climate Change Action Plan in 2007, which includes greenhouse gas emissions reduction targets of 80 per cent below 1990 levels by 2050 to help reduce the future impacts of climate change and support the development of a strong, low carbon economy. Many municipalities have been leaders in taking action on climate change and in involving their communities in developing mitigation and adaptation strategies.

Climate Change Mitigation

The Ministry of Municipal Affairs and Housing provides some direction and guidance to municipalities on climate change mitigation. For example, ministry policies encourage compact development and complete communities, which may help to reduce greenhouse gas emissions through improved energy efficiency and a reduced need to drive. The ministry also administers a Building Code that specifies energy and water efficiency requirements for new construction.

Under the City of Toronto Act, the City of Toronto has the authority to require and govern the construction of green roofs or alternative roof surfaces in certain circumstances. The Municipal Act currently does not include similar green roof provisions.

Climate Change Adaptation

Municipalities are already feeling the impacts of a changing climate as they deal with the aftermaths of an increased number of extreme weather events like greater flooding, tornados, more frequent heat waves and more severe episodes of freezing rain. These events can pose serious and costly threats to public safety and infrastructure. In addition, climate change impacts, like an increased number of extreme heat waves, may have significant effects on

public health. Municipalities have a role to play in fostering resilient communities that are prepared to anticipate and address these impacts.

DISCUSSION

We want to ensure the long-term prosperity and livability of our communities. The Ministry of the Environment and Climate Change (MOECC) is leading Ontario's efforts to fight climate change. MOECC is currently developing a climate change strategy and action plan to be announced later this year. We are interested in hearing how we can strengthen the Municipal Act and the City of Toronto Act to help municipalities address climate change across all municipal departments.

- Has your local council integrated climate change considerations in its policies, programs and decision making processes?
- What tools do municipalities need to address climate change mitigation and adaptation?
- Are you aware of any challenges and/or barriers that your council is facing in implementing initiatives related to climate change?

[Share your feedback online](#)

LOCAL REPRESENTATION

The Municipal Act sets out rules that municipalities must follow if they wish to change their council composition. For regional municipalities, some of the changes they may make include:

- changing the size of council;
- changing the way in which members of the upper-tier council are selected (for example, directly elected to the upper-tier); and,
- changing the method for how the head of council (e.g. regional chair) is selected.

If a regional municipality wishes to change its composition, it must first ask the Minister of Municipal Affairs and Housing to pass a regulation allowing it to do so. If and when a regulation is passed, the regional municipality must then follow the rules set out in the Act to change its composition. These rules include passing a bylaw, holding at least one public meeting to discuss the proposed change and receiving the required level of support from the lower-tier municipalities for the change.

Municipalities may also create local bodies, such as advisory committees or community councils, to help municipalities take into account community views in local decision-making. It is up to the municipality to decide the purpose of the local body, its composition, and its powers.

DISCUSSION

- Does the Municipal Act process for changing regional municipal council representation allow regions to respond to changing demographics and/or rapid population growth? If not, do you have suggestions for how these issues can be addressed?
- How can local bodies, such as community councils, best be used to increase community input in municipalities?

[Share your feedback online](#)

CHAPTER 6: WHAT'S NEXT

NEXT STEPS – WHAT WE HEARD

The main engagement period for the review will run from June to October 2015. Over the summer, the Ministry of Municipal Affairs and Housing will begin analysis on what we heard from Ontarians and our municipal sector partners.

Later this year, the government will post a “What We Heard” document on the Municipal Affairs and Housing website (ontario.ca/dl82) to capture and organize the input received from the public, municipalities and organizations.

OTHER WAYS TO GET INVOLVED

In addition to providing feedback through this discussion guide, you are welcome to send any further questions or suggestions you may have to:

Municipal Legislation Review
Ministry of Municipal Affairs and Housing
Local Government Policy Branch
777 Bay Street, 13th Floor, Toronto, ON M5G 2E5

Email: municipalreview@ontario.ca

FURTHER READING

We understand that you may have additional questions regarding the current municipal legislation framework. For more information, please see the resources below:

- **Municipal Councillor's Guide** (ontario.ca/cagp)
- **Municipal Act on e-laws** (ontario.ca/cagq)
- **City of Toronto Act on e-laws** (ontario.ca/cagb)
- **Municipal Conflict of Interest Act on e-laws** (ontario.ca/cagr)
- **MMAH website** (ontario.ca/mah)
- **Ontario Ombudsman website** (ombudsman.on.ca)

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