

460 Torbay Road  
St. John's, NL A1A 5J3  
Tel: 726-6405  
Fax: 726-6408  
ex.dir@nlama.ca  
www.pmanl.ca



# AT A GLANCE

## Legislative Requirements/Duties

### *Municipalities Act, 1999*

..... This document is intended for the use of Municipal Administrators in assisting them with meeting legislative requirements contained in the Municipalities Act, 1999. While there are other authorities in the Act which requires the involvement of the Municipal Administrator, this document identifies those which the Municipal Administrator has primary responsibility for, or in which they have significant involvement.

..... It is recommended that this document be shared with all respective employees to identify any legislative requirements not referenced herein or that may come into effect through amendments to the Municipalities Act, 1999, so they can be noted and provided to PMA. PMA will insure that this document is updated on an annual basis to make it a more inclusive and complete document for the benefit of all Municipal Administrators.

Section	Title	Excerpt From the Act	Excerpt Summary
18.(2)	Election of Mayor and Deputy Mayor	An election under subsection (1) shall be conducted by the Clerk or Returning Officer and shall be done by a secret ballot of Councillors.	The Clerk shall conduct the election of the Mayor and Deputy Mayor.
23.(1)	First meeting	The first meeting of a Town Council following a general or special general election shall be called by the Clerk or the Returning Officer within 14 days of the election.	The Clerk or Returning Officer shall call the first meeting of an elected council within 14 days of the election.
24.(1)	Meetings	The Mayor or two (2) Councillors shall request that the 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.	The Clerk shall call a monthly meeting of Council or a special meeting as directed by the Mayor or two (2) Councillors.
53.(3)	Manager	A Manager may be appointed Clerk or Acting Clerk in addition to his or her other duties under this Act.	The Manager may also carry the title and duties of the Clerk.
59	Clerk	A Council shall establish the position of Clerk and shall, by a vote of 2/3 of the Councillors in office, appoint a person to the position of Clerk.	Council shall appoint a Clerk with a 2/3 vote of Council in office.
60	Oaths and affirmations	A Clerk may administer oaths and affirmations and receive affidavits for the purpose of this Act.	The Clerk may administer oaths and affirmations.
61	Duties	A Clerk is the secretary to the Council and is responsible to it for recording the proceedings and decisions of the Council and for the safekeeping of all documents of the Council.	The Clerk is the secretary to the Council. The Clerk may, with the approval of Council, delegate duties to another employee.
62	Clerk to attend meetings	The Clerk shall attend all meetings of the Council and may, at the discretion of the Council, attend meetings of its committees.	The Clerk shall attend all meetings of the Council and may attend committee meetings.
75.	Financial Year	The financial year of a Council is from January 1 to December 31.	The exception is in an election year when the financial year is from the date of election to the following December 31.
76.(2)	Bank account	Cheques or orders withdrawing money from an account of a Council shall be signed by the Mayor or Deputy Mayor or by the Chairperson or Deputy Chairperson or in the absence or incapacity of both of them, by a Councillor designated for that purpose by the Council, and countersigned by the Treasurer or, where there is no Treasurer, by the Clerk.	All cheques shall be signed by Councillors as designated and countersigned by the Clerk.
77.	Annual Budgets	A Town Council shall ... not later than December 1 in each succeeding year, prepare and adopt a budget ... in the required form and a copy shall be sent to the Minister before the end of the calendar year	The exception is in an election year in which the budget is to be submitted within 90 days of the date of election.
86.(2)	Financial statements	The Mayor or Chairperson and the Treasurer, or, where there is no Treasurer, the Clerk, shall sign the financial statement and shall attach a report that an auditor has made with respect to the financial statement.	The Clerk shall sign the financial statement and shall attach a report that an auditor has made with respect to the financial statement.
87.	Appointment of Auditor	A council shall appoint an auditor before August 1 in the year preceding the year in which the audit is required to be reported	The individual or firm appointed shall be licensed as a public accountant under the <i>Chartered Professional Accountants and Public Accountants Act</i> and his or her appointment remains in effect until revoked by Council; however it is recommended that Council reconfirm the appointment of their auditor when the audit is approved.

Section	Title	Excerpt From the Act	Excerpt Summary
92	Time of completion and interim report	The auditor shall complete and submit the report on his or her audit to the Council before June 1 of the year immediately following the financial year ... and, not more than 30 days later, the auditor shall submit a copy of that report to the Minister.	Council or the Minister can request an interim report on the accounts if they deem it necessary. Important that a Request for Proposal (RFP) is utilized for the appointment of an auditor and the requirement to complete the audit prior to June 1 <sup>st</sup> and that the books of the Council must remain at the Council Office be included in the RFP.
98	Signature of Mayor, Chairperson, Clerk	The Mayor, Chairperson, Treasurer and, in the absence of a Treasurer, the Clerk, may impress their signatures by machinery on debentures issued by the Council, and debentures that have been impressed are valid as if they had been signed in the handwriting of the Mayor, Chairperson, Treasurer or Clerk.	The Clerk may impress their signatures on debentures issued by the Council,
103.1	Notice of tax status	The Clerk shall, in writing, not more than 40 days and not fewer than 30 days before the end of the financial year, advise each Councillor of the status of that Councillor's tax account.	The Clerk shall advise each Councillor of the status of that Councillor's tax account.
110	Proof of tax or service charge	In an action under this Act in which it is necessary to show that a tax or service charge was imposed or varied, a copy of the resolution of Council imposing or varying the tax or service charge and a minute of the Council signed by the Clerk indicating that resolution is, in the absence of evidence to the contrary, proof that the tax or service charge was properly imposed or varied.	The Clerk shall sign a resolution of Council imposing or varying the tax or service charge.
136	Tax certificate	The Clerk shall, on payment of a fee set by the Council, give a tax certificate to the owner or mortgagee of real property or his or her solicitor certifying the tax position of the property and other charges imposed by the Council on the real property and that tax certificate is binding upon the Council as to all taxes and other charges then imposed with respect to the real property.	The Clerk shall, on payment of a fee set by the Council, issue a tax certificate
137	Notice of arrears	Where taxes on real property owed under this Part are in arrears, the Clerk shall serve upon the owner, mortgagee, judgment creditor, lienholder or other person having a charge or encumbrance upon or against the real property to which the taxes apply, a notice signed by the Clerk.	The Clerk shall notify property owners of tax or other charges that are in arrears.
139 - 147	Notice	After the time limit indicated in the notice required to be given under section 137, the Council on the application of the Clerk shall, by resolution, direct that the real property be sold.	The Clerk administers the process of selling a property in arrears of taxes outlined in Sections 137 to 147. It is advisable to consult with legal counsel for guidance in exercising this authority.
148	Seizure of rentals	In addition to all other powers of enforcing payment of taxes that a Council possesses, it may seize so much of the rentals payable by tenants of real property that is subject to the real property tax, business tax or water and sewage tax that may be needed to discharge the liability of the owners of that real property for the tax due by the owners to the Council whether or not the taxes are in respect of the real property occupied by the tenants.	The Clerk shall serve on a tenant a written notice signed by the Clerk requiring the tenant to pay his or her rent to the Council instead of to the tenant's landlord. It is advisable to inform the property owner of this action.

Section	Title	Excerpt From the Act	Excerpt Summary
206 (1)	Vacancies	The office of a Councillor becomes vacant where (a) he or she resigns; (b) is a member of a Council of a municipality that is dismissed under the <i>Municipal Affairs Act</i> , or where under that Act, he or she is dismissed as a member of a Council; (c) stops being ordinarily resident in the municipality; (d) has been absent from the municipality for more than one year; (e) remains indebted to the Council for outstanding taxes 31 days after the end of the financial year; (f) without leave of the Council, (i) is not sworn into office within 60 days after his or her election, or (ii) does not attend regular public meetings of the Council for 3 successive months; (g) accepts without the prior written approval of the Minister, an office or employment under the Council to which a salary or remuneration, not including an honorarium payable out of the funds of the Council, is attached; (h) fails to vote on a matter before the Council when required to vote; or (i) the Council declares the Councillor's office vacant under subsection (2).	The Clerk should be aware of all circumstances under which the office of a Councillor becomes vacant.
206 (2)	Vacancies	A Council shall, by resolution, declare vacant the office of an elected Councillor where that Councillor (a) fails to disclose that he or she has a conflict of interest in a matter being discussed by the Council; or (b) discusses or votes on a matter on which he or she has a conflict of interest.	While the onus is on the Councillor, the Clerk should advise Councillors of agenda items in which they may be in a position of conflict.
210	Disclosure statement	The Councillors, Clerk, Manager, Treasurer and Department Heads of a municipality, shall complete annually, a disclosure statement in a form prescribed by Council.	Annual disclosure statements are required of all noted officials.
216	Copies of documents	The Clerk shall, upon payment of a charge that may be prescribed by the Council, provide to the person requiring the extract, a certified copy of the extract with the seal of the Council attached to the extract.	The Clerk shall provide a certified copy of the documents identified in Section 215.
217	Authentication of documents	The Clerk, when authorized by the Council, shall authenticate the deeds and documents by signing and initialling each page of them.	The Clerk shall authenticate all deeds and documents of the Council.