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## **Corporate Services Information Report – Legislative Services 2017-06**

TO: Mayor and Members of Council

SUBJECT: Bill 68 - Modernizing Ontario's Municipal Legislation Act, 2017

ORIGIN: Legislative Services

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In accordance with the Procedure By-law, any Member of Council may request that this Information Report be placed on an upcoming Committee of the Whole or Council agenda for discussion.

### **Background**

On November 16, 2016, the Honourable Bill Mauro, Minister of Municipal Affairs introduced Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017 ("Bill 68"), which was introduced in response to the Province's review of the Municipal Act and Municipal Conflict of Interest Act. On May 30, 2017 Bill 68 received Royal Assent (see **Appendix "A"**). All amendments resulting from the Bill have not yet been proclaimed (i.e. the amendments will come into effect in stages).

## **Summary of the amendments to the Municipal Act and the Municipal Conflict of Interest Act:**

### **1. Accountability and Transparency Amendments**

#### **a) Mandatory Codes of Conduct**

- The Municipal Act will now require mandatory codes of conduct for Members of Council and certain local boards, rather than optional.
- The Minister may make regulations setting out one or more subject matters to be included in a code of conduct, such as gifts and benefits, confidential information and behaviour when dealing with members of the public.

#### **b) Integrity Commissioners**

- Integrity Commissioners have a broader role, including:
  - Investigating alleged contraventions of the code of conduct and key sections of the Municipal Conflict of Interest Act.
  - Providing advice to Members of Council and local boards respecting their obligations under 1) the local code of conduct applicable to the members; 2) the local ethical behaviour procedures, rules or policies governing the members;

and, 3) the Municipal Conflict of Interest Act.

- Providing educational information to the public, the municipality and Members of Council and local boards about the code of conduct and the Municipal Conflict of Interest Act.
- Municipalities must provide the public with access to an Integrity Commissioner by either appointing their own Integrity Commissioner or making arrangements with an Integrity Commissioner of another municipality, or a combination of both.
- Municipalities are required to indemnify Integrity Commissioners and any person acting under their instructions for costs reasonably incurred in connection with the defence of certain proceedings.
- All requests from Members of Council or of a local board to the Integrity Commissioner for advice will now need to be in writing. The Integrity Commissioner will also be required to provide written advice in response to such requests.
- Restrictions surrounding when a request for inquiry may be filed with the Integrity Commissioner during a regular election year will apply, such as:
  - Requests for inquiry may not be filed between nomination day and voting day.
  - If the Integrity Commissioner has not completed their inquiry on a complaint before nomination day, the inquiry shall be terminated on that day.
  - Any inquiries that are terminated due to the above, the Integrity Commissioner shall not commence another inquiry unless within six weeks after voting day, the applicant or Member makes a written request that the inquiry be commenced.
- An elector or a person demonstrably acting in the public interest may submit a request for inquiry with the Integrity Commissioner.
- New authority for the Integrity Commissioner under the Municipal Conflict of Interest Act includes:
  - The ability to apply to a judge under the Municipal Conflict of Interest Act, after completing their own investigation, and the costs of applying to a judge would be paid by the municipality. Alternatively, if after investigating a complaint under the Municipal Conflict of Interest Act, an Integrity Commissioner decides not to apply to a judge, the applicant has the option to do so.
  - Investigating alleged contraventions, with the caveat that applications may only be made within six weeks after the applicant becomes aware of the alleged contravention, unless: 1) the alleged contravention occurred six weeks before nomination day of a regular election; and, 2) the applicant applies to the Commissioner within six weeks following voting day in a regular election.

### **c) The Municipal Conflict of Interest Act**

- Prohibits members from using their office to attempt to influence decisions or recommendations being considered by municipal or local board employees, if the member has a pecuniary interest in the matter.
- A member may attempt to influence a decision, when a member who is the subject of a possible code of conduct violation wishes to address Council or the local board with the intent to influence the voting (but not vote) because the matter under consideration is whether to impose a potential penalty of suspending the member's pay.

- The Municipal Act will now require a member who declares a pecuniary interest at a meeting to file a written statement of the member's interest at the meeting, or as soon as possible afterwards.
- There is a new requirement for municipalities and local boards to establish and maintain a registry of statements and declarations of pecuniary interests of members and make it available for public inspection.
- The range of penalties for contraventions of the Municipal Conflict of Interest Act has been broadened, and a judge may do any or all of the following:
  - Reprimand the member or former member (new penalty);
  - Suspend the remuneration paid to the member for a period of up to 90 days (new penalty);
  - Declare the member's seat vacant (current penalty);
  - Disqualify the member or former member from being a member during a period of not more than seven years after the date of the order (current penalty); or,
  - If the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, if the party's identity is not readily ascertainable, to the municipality or local board, as the case may be (current penalty).

#### d) Meetings

- The definition of "meeting" has been amended to mean any regular, special or other meeting of a council, of a local board or of a committee of either of them, where:
  - i. a quorum of members is present; and,
  - ii. members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee.
- **The exceptions to go into a Closed Session have been expanded to include:**
  - information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
  - a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
  - a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or,
  - a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.
- Councils, committees and local boards can electronically participate in meetings that are open to the public (i.e. electronic participation in closed meeting is not

permitted), provided that those participants are not counted towards quorum.

## **2. Municipal Financial Sustainability Amendments**

- The amendments may enable municipalities to build more diversified portfolios and potentially improve their investment returns.
- When a corporation dissolves, if any property taxes are in arrears on property that was owned by the corporation and that was forfeited to the Crown, the municipality can register a tax arrears certificate against the title to that land, and after 90 days from registering the certificate sell the land if the taxes remain unpaid.
- Fees and charges for the supply of a service or matter can be added to the tax roll for the property to which the service or matter was supplied.
- Tax bills can be sent electronically, should the taxpayer choose to receive it in that manner.

## **3. Responsive and Flexible Municipal Government**

- The changes allow municipalities to address climate change and greenhouse gas emissions by providing the authority to pass by-laws regarding climate change.
- Municipalities must adopt policies with respect to the protection and enhancement of the tree canopy and natural vegetation in the municipality.
- Regional municipalities will be required to review their council composition at least once following every second municipal election, starting after the 2018 municipal election.
- Lower-tier councils can appoint an alternate member of lower-tier council to temporarily replace a member of both lower- and upper-tier council on upper-tier council if the member is unable to attend a meeting, for any reason. Accordingly, Newmarket Council may appoint an alternate member to act in place of the Mayor or the Deputy Mayor & Regional Councillor if either member cannot attend a Regional Council meeting. The Town may not appoint more than one alternate member during a term of Council and the appointed member cannot act as an alternate for the Regional Chair. It is expected that the alternate member would have the same role (i.e. voting rights, counts towards quorum, etc.) as the member for which they are temporarily replacing.

## **4. General Amendments**

### **a) Council-Municipal Staff Relationship Policies**

- Municipalities are now required to establish council-municipal staff relationship policies.

### **b) Pregnancy and Parental Leave**

- Municipalities are required to develop policies on pregnancy and parental leave for council members, and the offices of members of council would not become vacant because of an absence related to pregnancy or parental leave for 20 consecutive weeks or less.

**c) Power of Entry**

Municipalities now have the ability to enter private property that is adjoining land owned by the municipality for the purpose of property maintenance (e.g. pruning trees, cutting grass).

**Summary of the proposed amendments to other legislation:**

**1. The Municipal Elections Act**

**a) Contribution Limits**

Individual and third party advertiser contribution limits that are currently \$750 are raised to \$1,200; however, the \$5,000 aggregate contribution limit has not been amended.

**b) Self-funding Limit**

The self-funding limit applies to the total amount of contributions made by the municipal council candidate and his or her spouse to the candidate's campaign. For example, if the limit was \$25,000:

- o The candidate could give \$20,000 and the spouse \$5,000; or,
- o They could each give \$12,500; or,
- o The candidate could give \$1000 and the spouse \$24,000, etc.

This self-funding limit applies only to municipal candidates. It does not apply to school board trustee candidates or to third party advertisers.

**c) Term of Office**

Change the start of the term of office for council and school board members from December 1 to November 15, in the year of a regular election.

**Next Steps:**

Staff will begin to undertake a review of Newmarket's policies, procedures and by-laws that will be impacted by the changes resulting from Bill 68.

**Business plan and strategic plan linkages**

Various aspects of Bill 68 align with Council's strategic priority to ensuring effective and efficient services.

**Consultation**

The following departments were consulted Human Resources, Financial Services, Planning and Building Services, Economic Development, and Legal Services for this report.

**Human resource considerations**

Not applicable to this report.

**Budget impact**

Potential budget impacts will need to be identified through the review of various by-laws, policies and procedures. For example the expansion of the Integrity Commissioner's powers may create

more work for the Integrity Commissioner and have a resulting budget impact. Staff will need to identify other potential hidden costs.

**Appendices**

**Appendix "A" - [Modernizing Ontario's Legislation Act, 2017 \(Bill 68\)](#)**

**Contact**

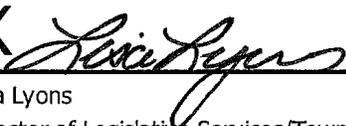
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