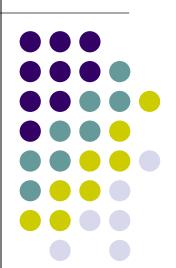
# Municipal Statute Law Amendment Act, 2006

AMCTO-MAH Municipal Training Workshop January - March 2007



### **Disclaimer**

### Municipal Statute Law Amendment Act, 2006



- These slides are provided by the Ministry of Municipal Affairs and Housing for convenience only. They are a simplified summary of some of the changes to the Municipal Act, 2001 made by Bill 130, and associated regulations filed in relation to that Bill.
- The slides should not be relied on for legal or official purposes. For authoritative text, recourse may be had to the official volumes (which include, but are not limited to, the *Municipal Act, 2001* and the applicable regulations). As local facts and circumstances are variable, users may wish to consider obtaining their own legal advice when particular legal issues or decisions arise.





- New powers and autonomy
- Flexibility to meet local expectations and fulfill responsibilities
- Build on our relationship with municipalities
- Extensive discussions with AMO and other municipal partners, plus submissions
- Act informed by City of Toronto exercise





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- General structure of the Municipal Act, 2001 is maintained
- Powers of a municipality under the Municipal Act, 2001 or any other Act to be interpreted broadly
- Natural person powers continue

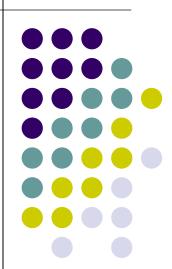


### Municipal Statute Law Amendment Act, 2006

- June 15, 2006 First reading
- October 12, 2006 Second reading/referred to committee
- November 2006 Public hearings
- December 19, 2006 Third reading
- December 20, 2006 Royal Assent
- January 1, 2007 Proclamation of most sections

# **General Municipal Powers**

Broad Powers (BP)
Spheres of Jurisdiction



# Previous:

### How municipalities got their powers



# GENERAL MUNICIPAL AUTHORITY

- Natural person powers; Spheres of Jurisdiction; Other broad grants of authority
- Explicit limits & prescriptive financial authority

# SPECIFIC MUNICIPAL POWERS

- Provisions that supplement& limit spheres in s.24-114
- Powers unrelated to spheres in s.115 on

#### **OTHER ACTS**

 Gives municipalities powers/ duties





### Single-tiers

Can do everything within the spheres of jurisdiction

### **Upper-tiers**

Can only do things assigned to it

#### Lower-tiers

 Can do everything except what is given exclusively to upper-tiers

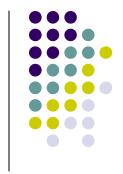
#### Conflict rule:

 If an upper-tier and a lower-tier both have authority and there is a conflict, upper-tier prevails

# **Previous - Limits & Restrictions**



- If a municipality can pass a by-law both under a sphere/NPPs and a specific provision, the limits on the specific provision also apply
- A municipality cannot pass by-laws under a sphere affecting the systems of the other tier of the type authorized by that sphere
- A municipality does not have powers under certain spheres to regulate systems owned by others of the type authorized by that sphere
- Limits on financial powers under the NPP and spheres



### **Broad Powers**

- All municipalities now have access to 'broad powers' new
- Assignment of specific municipal powers to either lower-tier or upper-tier municipalities is continued
- All provincial acts & regulations continue to apply and prevail in event of conflict





#### All municipalities receive the power to pass bylaws respecting:

- Governance structure of the municipality and its local boards.
- Accountability and transparency of the municipality and its operations and of its local boards and their operations.
- Financial management of the municipality and its local boards.
- Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
- Economic, social and environmental well-being of the municipality.
- Health, safety and well-being of persons.
- Services and things that the municipality is authorized to provide (subject to limits).
- Protection of persons and property, including consumer protection.

#### Single-tiers receive (these are spheres for 2-tiers):

- Animals
- Structures, including fences and signs
- Business Licensing





### Two tiers municipalities only:

- Highways, including parking and traffic on highways
- Transportation systems, other than highways
- Waste management
- Public utilities
- Culture, parks, recreation & heritage
- Drainage and flood control, except storm sewers
- Structures, including fences and signs
- Parking, except on highways
- Animals
- Economic development services
- Business licensing new

### **How Single-Tiers Get Their Power**

### - New



#### **BROAD POWERS**

- Natural person powers; Broad Powers (replace spheres);
   Other broad grants of authority
- One Broad Power does not limit or restrict another
- Explicit limits

# SPECIFIC MUNICIPAL POWERS

- s.23+ in Municipal Act
- Specific powers not covered by broad powers; limits on broad powers; procedures that apply to the use of broad powers

# OTHER ACTS

 Gives municipalities powers/ duties

**Broad to Specific** 

## How Two-Tier Municipalities Get Their Power - *New*



#### **BROAD POWERS**

- 8 broad powers provide municipalities with powers broader than those found within the current spheres
- •Also: Natural person powers & other broad grants of power

### SPHERES OF JURISDICTION

- 11 spheres of jurisdiction (new: business licensing) with exclusive or nonexclusive assignment
- Explicit limits & prescriptive financial authority

#### SPECIFIC MUNICIPAL POWERS

- •S.23+ in Municipal Act
- Specific powers not covered by BP or spheres; limits on the BP or spheres; procedures that apply to the use of the BP or spheres

#### **OTHER ACTS**

 Gives municipalities powers/ duties

Broad to Specific

# Rules & Limits for Broad Powers/ Spheres



- A municipality cannot use its Broad Powers to pass by-laws which the UT or LT can pass exclusively under the spheres (s.11(4) para 1 & 2)
- One tier cannot use its Broad Powers or Spheres to pass by-laws that the other tier can pass under a specific power (11(4) para 4, 5, 6, 7)
- In the event of a conflict between by-laws of an UT and a LT, both passed under the spheres, the UT bylaw prevails (s. 13)

# Rules & Limits for Broad Powers/ Spheres



- By-laws passed under Broad Powers cannot frustrate or make inoperable a system another tier has authority to provide under its Broad Powers (s.13.1)
- Broad Powers & Spheres are subject to procedural requirements and limits contained in specific provisions (s. 15)
- Province can make regulations prohibiting or imposing conditions on use of broad powers for 18 months (s.451.1)

# Delegation

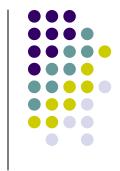
Delegation of Powers & Duties s.23.1 – 23.5





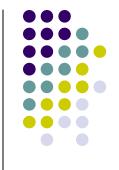


- Streamlines council decision-making by delegating minor matters
  - Permits council to focus on larger issues
- Builds on authority to create local bodies (e.g. advisory committees) to assist with local decision-making
- Minister has regulation making authority to restrict or impose conditions on delegation powers



### Legislative & Quasi-Judicial Powers

- Expanded authority to delegate legislative and quasi-judicial powers to certain persons/bodies, subject to certain restrictions (s.23.1) – new
- Legislative powers
  - E.g. noise by-laws, licensing, sign by-laws...
- Quasi-judicial powers
  - E.g. revoking/suspending licenses...



### Legislative & Quasi-Judicial Powers

- These powers can only be delegated to:
  - One or more members of municipal council
  - A body that has at least 2 members, of which 50% are council members, council appointees, or combination
  - An officer, employee or agent of the municipality (but only if the power is of a 'minor' nature)





### Examples (but not limited to):

- Local transit routes
- Noise by-laws
- Fences
- Animal control
- Local garbage pickup
- Certain types of business licensing (e.g. chip wagons, ice cream vendors...)
- Etc...

# Powers That Cannot Be Delegated



- Appointing/removing statutory officers
- Issues regarding taxes
- Incorporating corporations
- Adopting or amending official plans
- Zoning by-laws
- Issues related to small business counselling & municipal capital facilities
- Community improvement plans
- Approving municipal budgets
- Other powers as prescribed



### **Other Amendments**

- When a municipality delegates a power to a municipal service board, existing municipal by-laws or resolutions are deemed to be by-laws of the board
- Authority to establish appeal body to hear appeals or review decisions made under delegated power –
  - Includes power to determine procedures, powers & rules of those conducting the appeal
- Delegation can be revoked (unless specified) but can always be revoked after council term

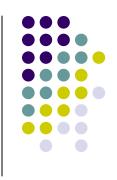
# **Business Licensing**

Part IV



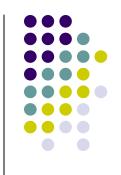
For Training Purposes Only





- Authority to license now either in broad power (for single tiers) or spheres (two tier structures) and in s.
   151 for both tiers
  - Also specific powers under Part IV (Licensing & Registration)
- Broader licensing powers purposes removed
  - No longer limited to the following purposes: health and safety; nuisance control; consumer protection
- Fees
  - Now under general fees and charges provisions





- Restrictions continue. No authority to license:
  - A manufacturing or industrial business, except to the extent that it sells its products or raw material by retail
  - The sale of goods by wholesale; or
  - The generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources



# Licensing – what's the same

- Can limit the number of taxicab licences and set fares/rates for cabs and tow trucks
- Zoning/limiting adult entertainment establishments – where they can operate
- Minister's regulation making authority





- Administrative suspension of a licence
  - May suspend a licence without a hearing if continuation poses an immediate danger to health & safety of a person or to any property (up to 14 days)
- Can suspend a licence authorizing a business to operate on municipal property without a hearing for 28 days for the following reasons:
  - The holding of a special event
  - Construction, maintenance or repair of the public property
  - Installation, maintenance or repair of a public utility or service
  - Pedestrian, vehicular or public safety or public health



# Licensing – what's new

- Authority to require payment of administrative penalties for failure to comply with a by-law relating to a business licence
- Can only use this authority if provincial regulation allows it to be used





- Purpose for licensing
- Requirement for explanation in by-law
- Specific requirement for notice and public meeting before passing licensing by-law
- Five-year "sunset" of licensing by-law





- Residential units new
  - Authority to establish a registry for or to license, regulate or govern the rental of a residential unit
- Group homes status quo