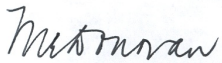




PO Box 1749
Halifax, Nova Scotia
B3J 3A5, Canada

Item No. 8
Halifax Regional Council
July 6, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
M.E. Donovan, Q.C., Director of Legal Services & Risk Management

DATE: June 15, 2010

SUBJECT: 2010 Legislation

INFORMATION REPORT

ORIGIN

Adoption of Bill 67, a Bill to amend the HRM Charter, Bill No 68, a Bill to amend the *Public Utilities Act* and Bill No.16 a Bill to amend the *Summary Proceedings Act*.

BACKGROUND

At its meeting of June 8, 2009, Council approved a request for certain amendments to the *HRM Charter*, the *Public Utilities Act* and the *Summary Proceedings Act*. A copy of the June 2009 report is attached.

DISCUSSION

Following the approval of the June 8, 2009 legislation request, staff engaged in discussions with the Province regarding the legislation. The result of those efforts is enactment, during the Spring 2010 session, of the following:

HRM Charter Bill 67

(I) Conservation Property

Amendments to include a definition of "conservation property" which allows HRM to participate in the new conservation easement concept adopted by the province in 2009, together with other Nova Scotia municipalities. It gives Halifax Regional Municipality the benefit of amendments made to the *Municipal Government Act* and the *Assessment Act* in the Fall 2008 sitting of the House which were inadvertently left out of the *Halifax Regional Municipality Charter*.

(ii) Variances

A housekeeping amendment to ensure *HRM Charter* terminology in respect of variances is consistent by deleting the word "minor" in the term "minor variance" in relation to a community council's authority to grant variances.

(iii) Trees

Amendments were made to the *MGA* in 2007 to enable a tree by-law that would allow Council the ability to regulate tree cutting on private property. The 2007 restrictions on this power impeded the ability of HRM to effectively achieve Council's objective in respect of ensuring appropriate tree retention in urban and suburban areas. The 2010 amendments remove the restrictions and will enable the preparation of a new tree retention by-law for Council's consideration.

(iv) LUB minimum/maximums

Eliminated the references to minimum and maximum standards thereby providing a greater degree of flexibility in setting standards.

(v) Hydrological Testing

Amends the HRM subdivision by-law enabling powers to allow for hydrological testing as part of the subdivision approval process, including refusal of approval, in the event of inadequate water supply.

(vi) Civic Numbers

Gives HRM the benefit of amendments made to the *Municipal Government Act* respecting civic numbers.

(vii) Removal of Obstructions

Includes fences in the authority of the Municipal Engineer to remove certain obstructions in relation to streets.

(viii) Prosecution Time Limits

Increases the time period in which by-law enforcement personnel may lay a charge for the breach of a land-use by-law or development agreement from six months to two years.

Public Utilities Act Bill 68

1. Raises from \$25,000 to \$250,000 the maximum capital expenditures that may be made, without the approval of the Nova Scotia Utility and Review Board, by a public utility.
2. Authorizes public utilities, in addition to Nova Scotia Power Inc., to submit to the Board for approval an annual capital expenditure program to enable public utilities to make capital expenditures without further approval by the Board.

Summary Proceedings Act Bill 16

The changes to the *Summary Proceedings Act* are intended in part to address a lack of available courtrooms for an ever increasing number of summary offence ticket arraignments. This is achieved by eliminating the need for an appearance before a justice of the peace and instead moving the arraignment to the front office with the plea to be entered by attending at the courthouse within a prescribed time, but at a time convenient to the accused, and appearing before a courthouse clerk. This is a very significant change in the manner in which the judicial process has traditionally managed the arraignment part of the trial process.

In addition, the process for the setting aside of an in absence conviction has been materially changed by making the granting of the application automatic within 60 days of the conviction. Given that there is significant administrative cost tied to this process, there will now be a requirement to pay an application fee for a hearing to consider the setting aside of the conviction.

Finally, the Bill provides that the 7-day suspension of a driver's licence for speeding is now fixed and begins 90 days after a ticket is issued.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Some of the enabling provisions will result in process or by-law changes, in respect of which community engagement may be required but not until the appropriate stage for that engagement.

ATTACHMENTS

1. A copy of the June 2009 report.
2. *HRM Charter* Bill 67
3. *Public Utilities Act* Bill 68
4. *Summary Proceedings Act* Bill 16

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: M.E. Donovan, Q.C., Director, Legal Services & Risk Management, 490-4226



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Attachment 1

Item No. 11.1.6

**Halifax Regional Council
23 June 2009**

TO: Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in dark ink, appearing to read "Dan English".

SUBMITTED BY:

Dan English, Chief Administrative Officer

A handwritten signature in dark ink, appearing to read "G. L. Kaiser".

Geri Kaiser, Deputy Chief Administrative Officer - Corporate Services
and Strategy

DATE: 9 June 2009

SUBJECT: Legislative Amendments - Recommendation Report - 2009

ORIGIN

Legal Services has prepared a list of proposed amendments, as requested by staff and Council, in relation to the *Halifax Regional Municipality Charter* (the "*HRM Charter*") for consideration by the Province at the Fall 2009 sitting of the Legislature.

RECOMMENDATION

It is recommended that Halifax Regional Council approve the recommended amendments set out in this report to the *HRM Charter* and related legislation and that the recommended amendments be forwarded to the Province of Nova Scotia for consideration.

BACKGROUND

Since the last report to Council, Legal Services has received various requests for amendments to the HRM Charter. These are in addition to those approved by Council in 2006, 2007 and 2008 which have been held in abeyance by the province pending completion of the HRM Charter and HRMbyDesign legislation.

DISCUSSION

I. Hydrological Assessments

Rationale:

There is currently no requirement in respect of by-right developments to test an area for long-term sustainable water yield, impact or quality. The province currently requires assessment for individual drilled wells. This is not adequate to ensure that as-of-right subdivisions have adequate water quantity and quality. Council has the ability to require a hydrological assessment through the development agreement process; however, Council does not in respect of a subdivision for a by-right development. It is therefore, recommended that Council seek the enabling legislation to require hydrological assessments in the case of all subdivisions not just those through development agreements.

Proposed Amendment:

Amending subsection 281(3) of the *HRM Charter* by adding the following new clause:

(l) requirements to provide an hydro geological impact assessment including quality, yield, and sustainability of water.

II. Surveys for Expropriations

Rationale:

The *Expropriation Act* does not require that a survey be included in a request for expropriation of land. In the case of the provincial expropriations, it is only optional that a survey be obtained. For consistency, it is proposed that the authority to expropriate land in the HRM Charter be amended so that the requirement to obtain a survey of land is also optional.

Proposed Amendment:

By deleting and amending clause 65(2)(a) of the *HRM Charter* to read as follows:

- (2) Where real property is proposed to be expropriated,
- (a) the Municipality ~~shall~~ **may** survey the property and prepare a description of it;
 - (b) municipal employees and agents of the Municipality may enter upon the property to survey or examine it; and
 - (c) the Municipality may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.
- (3) The Expropriation Act applies to expropriation proceedings by the Municipality.

III. Exemption for Capital Projects

Rationale:

Currently, any capital expenditures over \$25,000 by a utility, including the Water Commission, require UARB approval. This threshold amount was last increased in 2001 when it was \$5,000. The exemption for capital expenditures in the *Public Utilities Act* at \$25,000 is too low which requires an unnecessary approval process for small projects. It is recommended that this be adjusted to \$250,000.

Proposed Amendment:

By deleting and amending section 35 of the *Public Utilities Act* as follows:

Approval of improvement over ~~\$25,000~~ \$250,000

No public utility shall proceed with any new construction, improvements or betterments in or extensions or additions to its property used or useful in furnishing, rendering or supplying any service which requires the expenditure of more than ~~twenty-five~~ **two hundred and fifty** thousand dollars without first securing the approval thereof by the Board. R.S., c. 380, s. 35; 2001, c. 35, s. 30.

IV. Cutting of Trees

Rationale:

Pursuant to an amendment obtained in 200?, the *HRM Charter* now requires that existing trees or vegetation can be retained or removed only with a municipal permit excepting where land capable of being subdivided into three or fewer lots in serviced areas or in 10 or fewer lots in unserviced areas. Staff are noting that the exemptions are inconsistent with the HRM objective to better manage the denuding of lots being readied for development. These exceptions create planning holes which

may contrast with HRMs comprehensive yet evolving green strategy that requires the ability to manage all green spaces in the HRM area. It is therefore recommended that the Charter be amended to provide more flexibility in the development of an HRM by-law by limiting the exemption from the application of the by-law solely to lands used for agricultural or forestry purposes. The by-law then can be designed to be sensitive to development issues by creating an appropriate balance between the concerns of the development industry and those of residents.

Proposed Amendment:

By deleting from the *HRM Charter* as follows:

~~190 (1) In this Section, "serviced area" means an area that has access to municipal water or wastewater service or that is identified as a "serviced area" in a municipal subdivision by-law.~~

~~(2) The Council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit.~~

~~(3) Subsection (2) does not apply to~~

~~(a) land used for agricultural or forestry purposes;~~

~~(b) land that is in a serviced area and is only capable of being subdivided into three or fewer lots of a size that could be used for development; and~~

~~(c) land that is in an unserviced area and is only capable of being subdivided into ten or fewer lots that could be used for development.~~

V. Density Bonus Zoning

Rationale:

The HRM Charter currently limits the application of the HRM by Design provisions to "in the HRM by Design Downtown Plan Area" and therefore prevents incentive or bonus zoning anywhere outside the HRM by Design Downtown Plan Area, and, is more restrictive than the current 220 (5)(k) of the MGA which allows incentive or bonus zoning anywhere in the municipality. Staff are recommending that this restriction be removed from the hRM Charter. Staff are also recommending that HRM should have the authority to accept cash in lieu dedications to facilitate the development of a capital reserve for general public realm improvements.

Proposed Amendment:

By deleting and amending the *HRM Charter* as follows:

Section 235(5)(k) provide for incentive or bonus zoning in the HRM by Design Downtown

~~Plan Area~~ and specify the cases in which cash in lieu of an on-site contribution shall be transferred to the Municipality;

(l) Where cash is paid in lieu of providing an on-site incentive or bonus zoning contribution, the Council shall use the funds for the acquisition of, and capital improvements to, public realm infrastructure, including transit and active transportation facilities, and similar purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of the infrastructure and facilities.

VI. External Appearance of Buildings

Rationale:

HRM has the authority in section 235 of the *HRM Charter* to regulate the external appearance of structures in the HRM; however, HRM can not regulate the external appearance of structures in site plans other than in the HRM By Design Planning Area. Staff are recommending that the *HRM Charter* be made internally consistent thereby allowing HRM to regulate the external appearance of buildings anywhere in the HRM consistent with the MGA.

Proposed Amendment:

That subsection 246(3) of the *HRM Charter* be amended by deleting as follows:

(k) the external appearance of structures ~~in the HRM By Design Downtown Plan Area;~~

VII. Dartmouth Common

Rationale:

The current Dartmouth transit facility design will displace approximately 140 Dartmouth Sportsplex parking spaces. These can be accommodated within the six acres set aside for the transit facility but an amendment to the Charter is required to allow for this use within the transit facilities six acres.

Proposed Amendment:

By adding to subsection 66 (5) of the *HRM Charter* as follows:

The Municipality may build, expand or improve public transit facilities on that part of the Dartmouth Common adjacent to Nantucket Avenue and not exceeding six acres. **Any existing Dartmouth Sportsplex parking displaced by public transit facilities may be relocated within the same six acre site.**

VII. Community Council authority to amend Municipal Planning Strategies

Rationale:

The *HRM Charter* currently authorizes Regional Council to delegate to Community Councils the adoption of land use by-law amendments. In other discussions concerning improvements to response to planning applications, Regional Council has directed staff to request an amendment to the legislation to allow Regional Council to also delegate to Community Councils their authority to make decisions concerning amendments to the various Municipal Planning Strategies when they are of a local, site-specific nature.

Proposed Amendment:

That Section 30 of the *HRM Charter* be amended by adding after subsection (4) the following new subsection:

- (5) A community council may amend the municipal planning strategy applicable to the community with respect to any property in the community if the amendment is local in nature and is necessary to enable a site specific land use by-law amendment or a development agreement and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.**

BUDGET IMPLICATIONS

Any expenses incurred to implement these changes will be provided for within the Approved Operating Budget.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

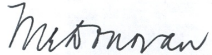
Council could delete any of the proposed amendments.

ATTACHMENTS

Amendment Tracking Spreadsheet

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Stephan Jedynak, Solicitor



Report Approved by: M.E. Donovan, Director, Legal Services

AMENDMENT TRACKING SPREADSHEET

Last Updated: June 12, 2009

Particulars of Request	Date of Council Approval
Supplementary Funding & Civic Addressing Amend the <i>MGA</i> to implement Supplementary Funding Agreement with the School Boards.	
Amended Sections Bill 179 - section numbers - See Appendix "A"	
Waterton Decision Comments - December 23, 2008 Lack of clarity around power of UARB in the event of an appeal from decision of DO.	
Incentive or Bonus Zoning The phrase "in the HRM by Design Downtown Plan Area" prevents incentive or bonus zoning anywhere outside the HRM by Design Downtown Plan Area and is more restrictive then the current 220 (5)(k) of the MGA which allows incentive or bonus zoning anywhere in the municipality. See Appendix "B".	
Hydrological Assessments Allow HRM to require comprehensive assessment of water tables for sub-division approval	June 2, 2009
Surveys for Expropriation Ensuring <i>Expropriation Act</i> and HRM Charter are consistent making surveys optional (currently mandatory for HRM expropriation)	June 2, 2009
Exemption of Capital Projects Increase exemption from UARB oversight amount to \$250,000 from \$25,000	June 2, 2009
Cutting of Trees	June 2, 2009
Density Bonus Fund	June 2, 2009
Dartmouth Common	June 2, 2009
Setting Speed Limits in School Areas Amending the <i>MVA</i> to set speed limits to under 50 kph	March 10, 2009

AMENDMENT TRACKING SPREADSHEET

Last Updated: June 12, 2009

Particulars of Request	Date of Council Approval
Service on Clerk Require service on municipal clerk, requirement changed by 2008 Civil Procedure Rules	January 6, 2009 (Tentative)
Spending Power for Special Events Clarify HRM may spend money for events on the Commons.	June 17, 2008
Acceptance of Public Streets Clarify that a street does not become a “public street” until the street is accepted by Council or the street is part of an approved subdivision.	June 17, 2008
In Camera Discussion for Intergovernmental Affairs Facilitate In Camera discussions of government initiatives prior to a public announcement of the initiative.	June 17, 2008
Local Improvement Charges relating to Nova Scotia Power. Clarify LICs may be charged against NSPI.	June 17, 2008
Limitation Period for By-law Prosecutions To mirror the <i>Building Code Act</i> , the time limit for laying a charge for breach of a land use by-law or development agreement be increased from 6 months to two years.	June 17, 2008
Amounts Owed to HRM Enhance HRM’s ability to collect fines that have been imposed by the provincial court by amending the MGA to make fines imposed by a provincial court: 1) relating to specific properties, first liens against real property and collectable in the same manner as taxes, (2) relating to two or more convictions for noise violations first liens against the property from where the noisy activity originates. Amend the Summary Proceedings Act so a fine imposed by a court is deemed a judgment of the NSSC. (See also #5).	June 17, 2008
Community Council & Minor Variances Delete the word “minor”.	June 17, 2008

AMENDMENT TRACKING SPREADSHEET
Last Updated: June 12, 2009

Particulars of Request	Date of Council Approval
Charges for Future Use Allow Council the ability to impose changes against persons who will benefit, in the future, from a service (ie water & sewer)	June 17, 2008
Summary Offence Tickets Grant Regional Council the authority to designate wording to make an offence Sottable.	June 17, 2008
Fences Obstructing Streets Permit the Engineer to order fences removed that obstruct the visibility of a driver. (See also #6).	June 17, 2008
Search Warrants Allow a Justice of the Peace to issue a search warrant under the MGA.	June 17, 2008
Dartmouth Common Allow a new Transit system on the Dartmouth Common and more parking for the Sportsplex.	June 17, 2008.
<i>Smoke Free Places Act</i> Allow placement of cigarette receptacles within the service area of the sidewalk.	June 19, 2007
Noise 1. Address excessive noise and make the owner responsible for the noise of an occupier. 2. Empower peace officer to demand from the owner, within 48 hours, the name and the address of the person occupying the premises or a copy of the lease. 3. Provide landlord redress for noisy tenants. (See also #20).	May 29, 2007

AMENDMENT TRACKING SPREADSHEET

Last Updated: June 12, 2009

Particulars of Request	Date of Council Approval
Obstructions on Streets Clarify that the owner is required to pay for the costs of remedying an obstruction on a street. For example, private fencing obstructing a public street. (See also #24).	May 29, 2007
Active Transportation Seek power to impose active transportation capital cost charges at the development and subdivision stages.	May 29, 2007
Tax Rate for Non-Profits and Charities Grant Council the power to set different tax rates for non-profit and charitable organizations thereby allowing a decrease in taxes payable without the need to amend the bylaw for a partial exemption.	May 29, 2007
Notice of Claims Add a 21 day limitation period in the <i>MGA</i> for transit and snow and ice claims to allow gathering and preservation of the necessary evidence.	May 29, 2007
Accident Benefits (Section “B”) and Unidentified Motorist (Section “D”) Payments on Metro Transit Buses Priority for payment be sought requiring an occupant of a bus, who is insured under his or her own automobile insurance, to claim, in the first instance, section B and section D benefits against his or her own policy rather than against HRM. This still allows recovery from HRM if the occupant does not have his or her own insurance.	May 29, 2007
Maximum and Minimum LUB Provisions Remove the words “minimums” and “maximums” from the LUB provisions found in s. 220(4) to improve flexibility. For example, to permit the regulation of both minimum and maximum frontage rather than only minimum frontage.	May 29, 2007
Increasing Building Requirements Near Nuisances To facilitate greater proximity of residential uses to commercial and industrial developments, allow HRM to impose more stringent construction standards for residential development near nuisances than are contained in the N.S. <i>Building Code Act</i> .	May 27, 2007

AMENDMENT TRACKING SPREADSHEET

Last Updated: June 12, 2009

Particulars of Request	Date of Council Approval
Seniors Housing There is a demand for seniors' housing. It is recommended the Province of Nova Scotia remove barriers to senior housing in the <i>MGA</i> and <i>Human Rights Act</i> .	May 27, 2007
Heritage Incentives Clarify the incentives a municipality may provide to municipal heritage property or a property in a conservation district. Provide municipalities the power to regulate the demolition or removal of municipal heritage property.	October 3, 2006
Vacant Buildings Section 536C grants the municipality the power to expropriate boarded up vacant buildings; however, a clarification is required regarding whether the dangerous and unsightly powers in the <i>MGA</i> also apply to vacant buildings.	October 3, 2006
Maximum Tax Rate and Flexibility Seek powers to: (a) set a maximum tax rate; and (b) to impose charges, in lieu of taxes, for rural area, urban area on: (1) taxable assessed property or (2) dwelling unit based on acreage or frontage. (See also #1).	October 3, 2006
Tax System Provide flexibility to provide tax credits to tax payors with excessive assessments. (See also #4).	March 8, 2005

BILL NO. 67

Attachment 2

(as introduced)



*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

Government Bill

Halifax Regional Municipality Charter (amended)

The Honourable Ramona Jennex
Minister of Service Nova Scotia and Municipal Relations

[First Reading: May 5, 2010](#)

[\(Explanatory Notes\)](#)

Second Reading: May 6, 2010

[Third Reading: May 10, 2010 \(LINK TO BILL AS PASSED\)](#)



Explanatory Notes

[Clause 1](#) defines "conservation property".

Clause 2 deletes the word "minor" in the term "minor variance" in relation to a community council's authority to grant variances.

Clause 3 gives Halifax Regional Municipality the benefit of amendments made to the Municipal Government Act and the Assessment Act in the Fall 2008 sitting of the House which were inadvertently left out of the Halifax Regional Municipality Charter.

Clause 4 amends the by-law making authority of the Council with respect to tree cutting.

Clause 5 permits HRM to establish maximum, as well as minimum, street frontage and lot area requirements for lots and minimum, as well as maximum, density of lots.

Clause 6 amends the HRM subdivision by-law authority.

Clause 7 gives HRM the benefit of amendments made to the Municipal Government Act respecting civic numbers.

Clause 8 includes fences in the authority of the Municipal Engineer to remove certain obstructions in relation to streets.

Clause 9 increases the time period in which by-law enforcement personnel may lay a charge for the breach of a land-use by-law or development agreement from six months to two years.

Clause 10 provides that Sections 1 and 3 have effect on and after February 17, 2009.



An Act to Amend Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter

Be it enacted by the Governor and Assembly as follows:

1 Section 3 of Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter, is amended by adding immediately after clause (n) the following clause:

(na) "conservation property" has the same meaning as in the Assessment Act;

2 Subsection 30(4) of Chapter 39 is amended by striking out "minor" in the second line.

3 Chapter 39 is further amended by adding immediately after Section 98 the following Section:

98A (1) The Minister of Environment shall in each year pay to the Municipality in respect of conservation property exempt from taxation situate therein a grant equal to the amount that would have been due and payable to the Municipality had each conservation property in the Municipality continued to be classified as it was immediately before becoming conservation property.

(2) Notwithstanding anything in this Act or any other Act of the Legislature authorizing a tax on

the assessed value of property, no change in use tax is payable by reason of a property becoming conservation property.

(3) Where any land, or part thereof, to which this Section applies, ceases to be conservation property, a change in use tax, determined by the assessor pursuant to the Assessment Act, equal to twenty per cent of the value of the land, or part thereof, that ceased to be conservation property is due and payable to the Municipality by the person determined by the assessor to have been responsible for the change in use.

(4) Notwithstanding subsection (3), no change in use tax is payable by reason of the ownership of conservation property being transferred to Her Majesty in right of the Province or Canada or to a municipality.

4 (1) Subsection 190(2) of Chapter 39 is amended by adding "in serviced areas" immediately after "permit" in the last line.

(2) Subsection 190(3) of Chapter 39 is repealed and the following subsections substituted:

(3) Subsection (2) does not apply to land used for agricultural or forestry purposes.

(4) The Council may make by-laws, for municipal purposes, establishing watercourse buffer zones in which existing trees or vegetation must be retained or only removed pursuant to a municipal permit.

5 Subsection 235(4) of Chapter 39 is amended by

(a) striking out "minimum" in the first line of clause (a); and

(b) striking out "maximum" in clause (h).

6 Subsection 281(3) of Chapter 39 is amended by adding immediately after clause (j) the following clauses:

(ja) with respect to subdivision applications that are located outside the serviced area as that term is defined in Section 190 and that are for the creation of ten or more lots, requirements for hydrogeological impact assessments including an evaluation of the quality, quantity and sustainability of water supply within the proposed subdivision and an evaluation of the cumulative impacts on water supplies outside of the proposed subdivision;

(jb) in areas where hydrogeological impact assessments are required, water supply standards that must be met before a subdivision can be approved, for quantity, sustainability of water supply and for the cumulative impact on water supplies outside of the proposed subdivision;

7 Section 323 of Chapter 39 is amended by

(a) striking out "(1)" in the first line; and

(b) striking out "buildings" in the second line of clause (a) and substituting "properties, including buildings, and other locations".

8 (1) Subsection 331(1) of Chapter 39 is amended by adding "or remove or alter a fence" immediately after "vegetation" in the second line.

(2) Subsection 331(2) of Chapter 39 is amended by

(a) adding "or remove or alter a fence" immediately after "vegetation" in the second and third lines; and

(b) adding "or the fence to be removed or altered, as the case may be" immediately after "trimmed" in the third line.

9 Chapter 39 is further amended by adding immediately after Section 370 the following Section:

370A Notwithstanding the Summary Proceedings Act, the limitation period for the prosecution of an offence under a land-use by-law or a development agreement is two years from the date of the commission of the alleged offence.

10 Sections 1 and 3 have effect on and after February 17, 2009.



This page and its contents published by the Office of the Legislative Counsel, Nova Scotia House of Assembly, and © 2010 Crown in right of Nova Scotia. Created May 21, 2010. Send comments to legc.office@gov.ns.ca.

BILL NO. 68

Attachment 3

(as introduced)



*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

Government Bill

Public Utilities Act (amended)

The Honourable Ramona Jennex
Minister of Service Nova Scotia and Municipal Relations

[First Reading: May 6, 2010](#)

[\(Explanatory Note\)](#)

Second Reading: May 7, 2010

[Third Reading: May 10, 2010 \(LINK TO BILL AS PASSED\)](#)



Explanatory Note

[This Bill](#)

(a) raises from \$25,000 to \$250,000 the maximum capital expenditures that may be made, without the approval of the Nova Scotia Utility and Review Board, by a public utility; and

(b) authorizes public utilities, in addition to Nova Scotia Power Inc., to submit to the Board for approval an annual capital expenditure program to enable public utilities to make capital expenditures without further approval by the Board.



An Act to Amend Chapter 380 of the Revised Statutes, 1989, the Public Utilities Act

Be it enacted by the Governor and Assembly as follows:

1 Section 35 of Chapter 380 of the Revised Statutes, 1989, the *Public Utilities Act*, as amended by Chapter 35 of the Acts of 2001, is further amended by striking out "twenty-five" in the fifth line and substituting "two hundred and fifty".

2 (1) Subsection 35A(1) of Chapter 380, as enacted by Chapter 8 of the Acts of 1992, is amended by striking out "Nova Scotia Power Incorporated" in the second line and substituting "a public utility".

(2) Subsection 35A(2) of Chapter 380, as enacted by Chapter 8 of the Acts of 1992, is amended by striking out "Nova Scotia Power Incorporated" in the second and third lines and substituting "a public utility".

(3) Subsection 35A(3) of Chapter 380, as enacted by Chapter 8 of the Acts of 1992, is amended by

(a) striking out "Nova Scotia Power Incorporated" in the first line and substituting "A public utility"; and

(b) striking out "twenty-five" in the last two lines and substituting "two hundred and fifty".



This page and its contents published by the Office of the Legislative Counsel, Nova Scotia House of Assembly, and © 2010 Crown in right of Nova Scotia. Created May 25, 2010. Send comments to legc.office@gov.ns.ca.

BILL NO. 16

Attachment 4

(as introduced)



*2nd Session, 61st General Assembly
Nova Scotia
59 Elizabeth II, 2010*

Government Bill

Summary Proceedings Act (amended)

The Honourable Ross Landry
Minister of Justice

[First Reading](#): April 1, 2010

[\(Explanatory Notes\)](#)

Second Reading: April 20, 2010

[Third Reading](#): May 3, 2010 (LINK TO BILL AS PASSED)



Explanatory Notes

[Clause 1](#) amends the Summary Proceedings Act to provide that a summons sent by registered mail is deemed to have been served personally without proof of receipt or acceptance of the summons.

Clause 2

(a) replaces arraignments with respect to summary offence tickets with the filing of a notice of intention by a defendant that gives a defendant the option of paying the ticket, pleading guilty but making a submission respecting the penalty or pleading not guilty and having a trial;

(b) gives a defendant who has been convicted in the defendant's absence with respect to a summary offence ticket an automatic setting aside of the conviction upon application within 60 days of the conviction;

(c) requires a defendant who has been convicted in the defendant's absence with respect to a summary offence ticket to pay an application fee for a hearing to consider the setting aside of the conviction; and

(d) spells out with greater clarity additional details respecting summary offence tickets.

Subclause 3(1) replaces a form of plea of guilty with a power to prescribe it.

Subclause 3(2) removes a provision rendered redundant by this Bill.

Clause 4 provides that the 7-day suspension for speeding of a driver's licence begins 90 days after a ticket is issued .

Clause 5 enables the Governor in Council to make regulations defining undefined words or expressions.

Clause 6 provides that this Act comes into force on proclamation.



An Act to Amend Chapter 450 of the Revised Statutes, 1989, the Summary Proceedings Act

Be it enacted by the Governor and Assembly as follows:

1 Section 7A of Chapter 450 of the Revised Statutes, 1989, the Summary Proceedings Act, as enacted by Chapter 45 of the Acts of 1993, is amended by

(a) adding "the sending of the summons by registered mail" immediately before "is" the first time it appears in the fourth line; and

(b) adding "of the summons without proof of delivery or acceptance" immediately after "delivery" in the last line.

2 (1) Subsection 8(3) of Chapter 450 is amended by adding immediately after clause (a) the following clauses:

(aa) prescribing the form of a plea of guilty on a summons;

(ab) prescribing the form of the notice of intention to appear for the purpose of pleading guilty to an offence and making a submission as to penalty;

(ac) prescribing the form of the notice of intention to appear for the purpose of entering a plea of not guilty and having a trial of a matter;

(ad) prescribing the form of the certificate of a justice striking out a conviction;

(ae) prescribing the fee for an application to strike out the conviction pursuant to subsection (18);

(2) Section 8 of Chapter 450, as amended by Chapter 45 of the Acts of 1993, Chapter 18 of the Acts of 1994-95, Chapter 8 of the Acts of 1999 (Second Session), Chapter 4 of the Acts of 2000, Chapter 5 of the Acts of 2001, Chapter 2 of the Acts of 2006 and Chapter 4 of the Acts of 2008, is further amended by adding immediately after subsection (13) the following subsections:

(13A) A person who is served with a ticket summons shall

(a) where the person does not wish to dispute the charge,

(i) sign the plea of guilty on the summons and, within the time specified in the summons, deliver the summons and amount of the penalty specified in the summons to any Provincial Court office in the Province, or

(ii) where the person wishes to make a submission as to penalty, including the extension of time for payment, file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear for the purpose of pleading guilty to the offence and making a submission as to penalty; or

(b) where the person wishes to dispute the charge,

(i) file in prescribed form, within the time specified in the summons, with the clerk of the court a notice of intention to appear in court for the purpose of entering a plea of not guilty and having a trial of the matter, and

(ii) include in the form the person's mailing address, telephone number, facsimile number and electronic mail address.

(13B) Where a person has delivered a notice of intention to appear in accordance with subsection (13A),

(a) the clerk of the court shall, as soon as practical, give notice to the person and the prosecutor of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty; and

(b) the person shall attend at the time and place specified in the notice.

(13C) The clerk of the court may send a notice to a person by mail, facsimile or electronic mail and, where the notice is sent to the person by mail, facsimile or electronic mail, the notice is deemed to have been received by the person.

(13D) Acceptance by the court office of payment under subclause (i) of clause (a) of subsection (13A) constitutes a plea of guilty whether or not the plea is signed and the endorsement of payment on the certificate of offence constitutes the conviction and imposition of a fine in the amount specified in the summons for the offence.

(13E) A justice may require a submission as to penalty to be made orally under oath or by affidavit.

(13F) A signature on a ticket summons or notice of intention to appear purporting to be that of the defendant is proof, in the absence of evidence to the contrary, that it is the signature of the defendant.

(3) Subsection 8(15) of Chapter 450 is repealed and the following subsections substituted:

(15) Where a person is served with a ticket summons and the person has not acted within the time specified in the summons as required by subsection (13A) or where a person who has given notice of an intention to appear fails to appear at the time and place appointed for the hearing, the person is deemed to not wish to dispute the charge and a justice shall

(a) where the information portion of the ticket is complete and regular on its face, enter a conviction in the person's absence without a hearing and impose

(i) the minimum penalty authorized by law for the offence or, where another penalty for that offence has been directed by the Attorney General for out of court settlement pursuant to subsection (6), that other penalty, and

(ii) a charge of one hundred and ten dollars and twenty-one cents or, for a parking infraction as defined in subsection (1) of Section 8A, thirty-two dollars and ninety-six cents; or

(b) where the information portion of the ticket is not complete and regular on its face, quash the proceeding and advise the issuing officer that the proceeding has been quashed.

(15A) For greater certainty, where the ticket

(a) indicates that the ticket is for a second or for a third or subsequent offence; and

(b) correctly references the out-of-court settlement amount prescribed for a second or for a third or subsequent offence,

the ticket is sufficient notice to the defendant that an increased penalty may be imposed and, where the information portion of the ticket is complete and regular on its face, a justice, including a justice entering a conviction in a person's absence in accordance with subsection (15), shall impose the increased penalty.

(4) Subsection 8(16) of Chapter 450, as amended by Chapter 18 of the Acts of 1994-95, is further amended by adding "(17A) or" immediately after "subsection" in the last line.

(5) Section 8 of Chapter 450, as amended by Chapter 45 of the Acts of 1993, Chapter 18 of the Acts of 1994-95, Chapter 8 of the Acts of 1999 (Second Session), Chapter 4 of the Acts of 2000, Chapter 5 of the Acts of 2001, Chapter 2 of the Acts of 2006 and Chapter 4 of the Acts of 2008, is further amended

by adding immediately after subsection (17) the following subsection:

(17A) Where a person who has been convicted as a result of a failure to act as required by subsection (13A) attends at the court office during regular office hours within sixty days of the conviction and requests that the conviction be struck out, the clerk of the court shall

(a) strike out the conviction;

(b) give the person a certificate of that fact in the prescribed form; and

(c) give the person and the prosecutor notice of the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

(6) Subsection 8(18) of Chapter 450 is repealed and the following subsection substituted:

(18) Where a person who has been convicted as a result of a failure to

(a) act as required by subsection (13A) and more than sixty days have elapsed; or

(b) appear at the time and place of the trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty, after having given a notice of intention to appear,

the person may appear before the court and the justice or the judge, as the case may be, upon payment of the prescribed application fee and being satisfied that

(c) the person demonstrates a prima facie defence to the offence charged in the ticket;

(d) the person has a reasonable excuse for failing to appear; and

(e) the person acted without unreasonable delay,

shall strike out the conviction, give the person a certificate of that fact in the prescribed form and give the person appearing and the prosecutor a notice of trial or the appearance for the purpose of pleading guilty to the offence and making a submission as to penalty.

3 (1) Subsection 9(2) of Chapter 450 is repealed and the following subsection substituted:

(2) Where a summons is so indorsed, it must provide for a plea of guilty in the form prescribed in the regulations.

(2) Subsection 9(3) of Chapter 450 is repealed.

4 Subsection 10(2) of Chapter 450 is amended by striking out "when the summons would otherwise require that person's attendance in court" in the last two lines and substituting "ninety days after the day the ticket was issued".

5 Chapter 450 is further amended by adding immediately after Section 18 the following Section:

19 (1) The Governor in Council may make regulations defining any word or expression used but

not defined in this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.

6 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.



This page and its contents published by the Office of the Legislative Counsel, Nova Scotia House of Assembly, and © 2010 Crown in right of Nova Scotia. Created May 25, 2010. Send comments to legc.office@gov.ns.ca.