

Appendix 2

City of London: Recommended Amendments to the *Municipal Act, 2001* and *Municipal Conflict of Interest Act*

Municipal Act, 2001

In addition to endorsing the Association of Municipalities of Ontario (AMO)'s submission on the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*, the City of London has developed additional comments on the three themes proposed by the Ontario Government: Accountability and Transparency, Municipal Financial Sustainability, and Responsive and Flexible Government. It also proposes several recommendations regarding Practices and Procedures detailed in the *Municipal Act*.

1. Accountability and Transparency

The Province of Ontario has made accountability and transparency a theme of its review of the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* and is considering tools for locally-determined integrity frameworks, to ensure they provide greater benefit and meet the changing needs of municipalities and the public. In particular, the review is examining codes of conduct, integrity officers, conflicts of interest, and open meetings.

In addition to endorsing AMO's comments on transparency and accountability, The City of London recommends the following *Municipal Act, 2001* amendment:

Integrity Commissioner: "The Commissioner is not required to be a municipal employee. 2006, c. 32, Sch. A, s. 98, *part.*" Section 223.3 (5)

In order to ensure real and perceived neutrality, The City of London recommends adding the following words:

The Integrity Commissioner should not be an employee or a relative of an employee or a Council Member.

Furthermore, the City of London recommends the application of this principle to the status of the Registrar, Ombudsman, Auditor General, and Closed Meeting Investigator.

Registrar, "The registrar is not required to be a municipal employee. 2006, c. 32, Sch. A, s98, *part.*" Addition: **The Registrar should not be an employee or a relative of an employee or a Council Member.** Section 223.11(5)

Ombudsman, "The Ombudsman is not required to be a municipal employee. 2006, c.32, Sch. A, s. 98, *part.*" Addition: **The Ombudsman should not be an employee or a relative of an employee or a Council Member.** Section 223.13(10)

Auditor General, "The Auditor General is not required to be a municipal employee, 2006, c. 32, Sch. A, s.98, *part.*" Addition: **The Auditor General should not be an employee or a relative of an employee or a Council Member.** Section 223.19(7)

Closed Meeting Investigator, “An investigator is not required to be a municipal employee.”
Addition: **An investigator should not be an employee or a relative of an employee or a Council Member.** Section 239.2(8)

2. Municipal Financial Sustainability

The Province of Ontario is looking for input on topics such as how existing municipal financial tools can be used more effectively, whether municipalities have the necessary tools to plan for, prioritize, and fund their investments in infrastructure and spending on services, and what barriers municipalities face in achieving long-term financial sustainability.

a) Revenue tools

Through its Strategic Financial Plan, the City of London is gradually moving toward a more manageable and appropriate mix of revenue sources. Currently, the use of revenue sources needs to be optimized in order to more appropriately reflect the costs that they support, as well as take into consideration the elasticity of the demand and inflationary pressures. By having more tools at its disposal, like those afforded to the City of Toronto through the *City of Toronto Act*, 2006, 267 (1), the City of London would be able to identify, optimize, and dedicate funding sources more appropriately.

- i. **Taxing authority:** The City of London supports affording Ontario municipalities the same powers to impose additional taxes that the City of Toronto has through the *City of Toronto Act*. This would help municipalities diversify their revenue base. **The City of London recommends that the *Municipal Act, 2001* grant all municipalities the taxation powers that the City of Toronto has access to in the *City of Toronto Act*.**
- ii. **Municipal Land Transfer Tax:** The *Municipal Act* should be amended to permit municipalities to levy a municipal land transfer tax as the City of Toronto has under the *City of Toronto Act*. Such a change would greatly assist the Province in reducing its infrastructure deficit. The amended municipal land transfer tax should restrict the use of the funds derived from the tax to infrastructure renewal. Such funds should be held in a reserve or reserve fund until disbursement. A municipal land transfer tax amendment would give municipalities the flexibility to choose to pursue this option, based on local rates, and environments. Other municipalities in Ontario should be given the opportunity to generate sustainable sources of revenue as the City of Toronto. **The City of London recommends that the *Municipal Act, 2001*, be amended so that all municipalities in the Province of Ontario have the authority to levy a land transfer tax as Toronto has under the *City of Toronto Act*.**
- iii. **Surtax on property with vacant and derelict buildings:** Enforcement related to vacant buildings entails a large municipal cost covering several different departments and boards including by-law enforcement, taxation, fire, and police services. As a measure to assist in cost recovery of enforcement, **the City of London recommends that the *Municipal Act, 2001*, be amended to authorize a surtax on municipal properties with vacant and derelict buildings.**

3. Responsive and Flexible Municipal Government

As part of its review, the province is considering such topics as whether municipalities are able to be innovative in how they are providing services; how improvements to the *Municipal Act, 2001*, could help ensure that municipalities can make best use of their authority and the available tools to respond to climate change and other municipal and provincial priority areas; and whether the *Municipal Act, 2001*, has the necessary processes in place to address local representation needs.

a) Climate Change

As part of this review, the Province of Ontario has requested input on whether and how municipalities have integrated climate change considerations into their policies, programs, and decision-making processes. The City of London has taken climate change into account through language regarding climate change mitigation and climate change adaptation in the new Official Plan (still in draft form), and in Municipal Council's 2015-2019 Strategic Plan.

The City of London recommends the following tools to address climate change mitigation and adaptation:

- Tools under the Planning Act
- Risk Assessment tools
- Case studies (before and after)
- Cost/Benefit analyses
- Evidence-based decision-making processes
- Clear information from the insurance industry on how current and future policies may change
- Infrastructure funding programs that make it mandatory to address climate change mitigation and adaptation during project design and implementation.

In implementing initiatives related to climate change, the City of London faces a financial challenge as raising additional funds through the local tax base is not possible. **The City of London recommends the implementation of a matching granting program, with 50/50 funding to assist in expanding the amount of work that could be undertaken on climate change.**

b) Community Councils

Municipalities were asked for their input on how local bodies, such as community councils could increase community input. London's view is that these bodies could, in fact, decrease community input over time as participants come to recognize that these bodies may not be composed of the decision-makers. If such bodies are proposed, the City of London recommends that there should be very clear expectations of their roles, powers, and abilities to shape decisions. As well, there should be a requirement that at each and every meeting of such

a body, the role of the body in the decision-making process be made clear. Persons who appear before such bodies must be advised that they are not making comments to the decision-makers, and that they would not have the right to appeal decisions if their representations are not made to the decision-making body.

4. Practices and Procedures

a) Notice Provisions

Through the *Municipal Act*, 2001, municipalities are required to give notice to the public on a wide variety of issues, for example, a notice on the passing of a by-law. Given changing patterns of readership by the public, **the City of London recommends that municipalities be permitted to advertise on their own municipal websites instead of in a local newspaper for City-wide notices.**

Similarly, for notices to individuals, businesses and property owners, **the City of London recommends a change in legislation to permit municipalities to distribute by email rather than by Canada Post.**

An amendment of this nature would save the City of London approximately \$100,000 on an annual basis.

b) Meetings

The City of London recommends the following amendment with respect to meetings:

A meeting or part of a meeting may be closed to the public if the subject matter being considered is within one of the exceptions to disclosure in the *Municipal Freedom of Information and Protection of Privacy Act*. Section 239(2)

c) Retention periods

“A municipality may, subject to the approval of the municipal auditor, establish retention periods during which the records of the municipality and local boards of the municipality must be retained and preserved in accordance with section 254.” Section: 255(3)

The City of London recommends the deletion of “*subject to the approval of the municipal auditor*”.

d) Records

This section deals with an agreement for archival services. **The City of London recommends that a definition be provided for “archival services”, and that the *Municipal Act, 2001*, state that the records are to be in the care of a trained archivist operating under proper archival conditions.** Section 254(3)

Municipal Conflict of Interest Act

The City of London agrees with AMO's submission regarding the *Municipal Conflict of Interest Act*. In particular, the language needs to be simplified so that elected officials can correctly interpret their obligations and carry them out, and the public can understand what these obligations are.

The City of London recommends that the *Municipal Conflict of Interest Act* clarify that it is the role of the individual to determine if they have a conflict of interest.