

Municipal Act Sections – Re: Transfer of Powers

188. (1) – Interpretation - In sections 189 to 193,

"elector" means a person whose name appears on the voters' list, as amended up until the close of voting on voting day, for the last regular election preceding the coming into force of a by-law under section 189 or 191;

"lower-tier power" means a power a lower-tier municipality or its local boards may exercise under any Act, including any limitations on the power, with respect to the following matters:

1. Waste management.
2. Fire protection and prevention.
3. Public transportation systems, other than highways.
4. Business licensing.
5. Economic development services.
6. Collection, transmission, treatment and disposal of sewage.
7. Production, distribution and supply of water.
8. Policing in accordance with the *Police Services Act*.
9. Any other matter prescribed by the Minister;

"upper-tier power" means a power an upper-tier municipality or its local boards may exercise under any Act, including any limitations on the power, with respect to the following matters:

1. Waste collection.
2. Fire protection and prevention.
3. Public transportation systems, other than highways.
4. Business licensing.
5. Economic development services.
6. Any other matter prescribed by the Minister.

(2) **Conflict** – In the event of a conflict between a by-law under clause 189 (1) (a) or 191 (1) (a) and a provision of any Act or regulation, the by-law prevails.

(3) **Conflict** – In the event of a conflict between a regulation under section 193 and a provision of any Act or regulation, the regulation under section 193 prevails. [2002, c.17, Sched. A, s. 38 (in force January 1, 2003)]

189. (1) Transfer of power to upper-tier – An upper-tier municipality may pass a by-law to provide for,

- (a) the transfer of all or part of a lower-tier power to the upper-tier municipality from one or more of its lower-tier municipalities which are specified in the by-law; and
- (b) transitional matters to facilitate the assumption of the lower-tier power.

- (2) **Conditions** – A by-law under subsection (1) shall not come into force unless,
 - (a) a majority of all votes on the council of the upper-tier municipality are cast in its favour;
 - (b) a majority of the councils of all the lower-tier municipalities forming part of the upper-tier municipality for municipal purposes have passed resolutions giving their consent to the by-law; and
 - (c) the total number of electors in the lower-tier municipalities that have passed resolutions under clause (b) form a majority of all the electors in the upper-tier municipality.
- (3) **No repeal** – A provision of a by-law passed under clause (1) (a) shall not be repealed in whole or in part after it comes into force.
- (4) **Exception** – Despite subsection (3), if a by-law of an upper-tier municipality passed under subsection (1) is in force, the by-law shall be deemed to be repealed to the extent it conflicts with a by-law of a lower-tier municipality passed under section 191 which comes into force at a later date.

- 190. (1) Effect of by-law** – When a by-law passed under section 189 comes into force,
- (a) the upper-tier municipality may exercise the transferred lower-tier power of the lower-tier municipalities specified in the by-law;
 - (b) a lower-tier municipality specified in the by-law and its local boards are bound by the by-law and no longer have the power to exercise the transferred lower-tier power;
 - (c) an existing by-law or resolution of a lower-tier municipality and its local boards that relate to the transferred lower-tier power shall, to the extent it applies in any part of the lower-tier municipality, be deemed to be a by-law or resolution of the upper-tier municipality; and
 - (d) the existing by-law or resolution referred to in clause (c) shall remain in force in that part of the lower-tier municipality until the earlier of two years after the transfer by-law comes into force and the day the existing by-law or resolution is repealed by the upper-tier municipality.
- (2) **Continuation of matters** – When a lower-tier power is transferred to an upper-tier municipality under section 189, the upper-tier municipality may continue anything that the lower-tier municipality began under the transferred lower-tier power before the transfer but did not complete.