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Power and Purpose: The Quiet Evolution of Canadian Municipal Law

Second Edition

Zack Taylor, Craig Mutter, Joseph Lyons, and Alec Dobson

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Disclaimer

This paper is not intended to provide legal advice. Legislation and regulation are constantly changing. Discussion of legal documents should be checked against official sources before they are used for professional or other purposes. The paper reflects only the views of the authors.

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Abstract

Local government is a vital part of Canada's multi-level democracy. It provides a voice for the needs, desires, and aspirations of local communities and shapes the environments in which we live. Amidst growing calls for greater local autonomy and expanded local powers and resources, this paper contributes a comparative overview of municipal law in Canada's ten provinces and three territories. We find that Canadian municipal law has experienced a quiet evolution over the past 40 years. The scope of municipal legal authority has expanded considerably as provinces and territories have revised their general municipal acts and adopted special laws for major cities. While the overall trend has been toward more permissive authority and the recognition of municipalities as democratic, accountable, and responsible governments, there are significant variations, both in law and in practice, among and within provinces and territories. We conclude that the practical potential of this wave of legislative reform is not fully known and may be unrealized, and requires further research.

Keywords: municipal governance, municipal powers, Canada, municipal law, intergovernmental relations

JEL Codes: H11, H70, H77, K11, K15

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* The complete paper with Appendix is available online: https://hdl.handle.net/1807/151251

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Foreword

The first edition of Power and Purpose was published in 2020. As the most comprehensive overview of Canadian municipal law targeted at policy practitioners and lay audiences published in many years, it clearly filled a gap. It has been widely read and cited.

The intervening five years have brought numerous changes. In the name of the housing affordability crisis, provincial governments across the country have involved themselves more deeply in municipal affairs. Ontario assigned new powers to city mayors. New Brunswick restructured its municipal system. Newfoundland and Labrador passed a new general municipal act. Many smaller amendments have been made, touching on development finance and ethics. And, much to the original author team's dismay, we have discovered omissions and errors in the original text. In this new edition, we have brought all material up to date, refined the summaries and discussion, and corrected errors. Importantly, we have also added coverage of the territories. To make the paper more user-friendly, we have created an Appendix containing extended extracts from some of the legislation referred to in the paper.

While the political context of local governance and provincial-municipal intergovernmental relations has changed, we stand by the argument made in the first edition: that there has been considerable evolution over the past 40 years in the statutory basis of local government, and that the direction of change has been toward greater flexibility and empowerment. While provincial governments may not always respect the spirit of these changes, and municipalities may be cautious in embracing them, important changes with potentially broad consequences and implications have occurred nonetheless.

Once again, the authors are grateful for comments from Nevena Dragicevic, Stéphane Émard-Chabot, Gabriel Eidelman, Daniel Rubenstein, and Andrew Sancton on the first edition, and from Aynsley Hovius, Alexandra Flynn, Waye Mason, Rob Nolan, Andrew Sancton, and Dave Taylor on this update.

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1. A Quiet Evolution

Local government is a vital part of Canada's multi-level democracy. It provides a voice for the needs, desires, and aspirations of local communities. It shapes the environments in which we live. It owns most public infrastructure. As Canada's population has grown and become more urbanized, many have called for the retooling of local government so it can become more effective and responsive. These debates have often revolved around resources. Canadian municipalities are understood to be subject to a fiscal imbalance, whereby the taxation powers they possess and intergovernmental grants they receive are insufficient to discharge their responsibilities (Federation of Canadian Municipalities 2024; Slack 2006). Others have focused on the constitutional status and legal powers of municipalities. By one measure, Canadian local governments have low autonomy compared to over 50 Global North countries (Ladner et al. 2021; see also Smith and Spicer 2016). Voices have proposed the entrenchment of municipalities as an independent order of government, with a protected sphere of jurisdiction, in the national constitution (Charter City Toronto 2019; Kong 2024; Flynn, Albert, and Des Rosiers 2024), or at least the embrace of legal doctrines that would afford local jurisdiction greater deference and autonomy (Flynn 2019; Good 2019). These calls echo those made by international organizations, including the OECD (2019), UN-Habitat (2009), and United Cities and Local Governments (2008), and academic observers (Frug and Barron 2008; Hirschl 2020; Schragger 2019).

In this context, it is important that Canadians better understand the legal foundations of their local governments and how they vary across the country (see Box 1.1). Updating and expanding Taylor and Dobson (2020), the goal of this paper is to provide an accessible, up-to-date, and systematic comparative overview of municipalities' authority and responsibilities as defined in provincial and territorial law. Overcoming the typical focus on Ontario and British Columbia and other Canadians' tendency to ignore developments in Québec, the overview is of national scope, covering all ten provinces and the three territories.

The comparison reveals that Canadian municipal law is not frozen. In fact, there has been a quiet and underappreciated evolution in public authority. Starting with Alberta in 1994 (LeSage and McMillan 2008), each province and territory has during the past 30 years replaced or comprehensively revised its general municipal legislation in ways that expand the scope of local authority and the discretion to exercise it. Before these changes, Canadian municipalities could only perform tasks explicitly authorized in law; doing anything else required legislative change. They were conceptualized in law primarily as deliverers of services; their democratic purpose was minimized. With these changes, Canadian municipalities became defined in law as accountable, democratic governments with broad, flexible powers and greater discretion to exercise them. This paper charts these changes and points to their implications.

Box 1.1: What is Municipal Law?

Broadly construed, the body of municipal law includes all legislation, regulations, and judicial and tribunal decisions that establish, enable, constrain, and otherwise influence the activities of municipal corporations. Within this wide net, arriving at a precise number of provincial and territorial statutes that touch on the municipal domain is difficult. Côté and Fenn (2014, 3) identify more than 70 separate provincial statutes that do so in Ontario, while the Association of Municipalities of Ontario estimates the number at 280. This does not include federal statutes on matters such as environmental standards, Indigenous rights, and law enforcement. A stricter definition includes only provincial statutes that establish the existence and primary authority of municipal corporations. This body of law is the primary focus of this paper.

In this paper, we make a broad distinction between "special" and "general" legislation. *Special legislation* applies to a specific person or corporation (including a municipal corporation). *General legislation*, by contrast, applies to all subjects in the polity or a defined class of subjects (see Binney 1893). This overlaps with the legal distinction between "public" and "private" bills; however, we find the special/general distinction to be a more intuitive descriptor for the purposes of this paper.[1]

In the case of Ontario, for example, its *Municipal Act,* 2001 is a unified *general* statute that applies to all municipalities in the province – with one exception. The *City of Toronto Act*, 2006, is a *special* statute that applies solely to its namesake municipality. A similar dynamic of general provincial legislation paralleling city-specific statutes can be seen in British Columbia (with Vancouver), Manitoba (with Winnipeg), Nova Scotia (with Halifax), and Newfoundland and Labrador (with St. John's, Corner Brook, and Mount Pearl) (see Section 6).

Saskatchewan, by contrast, takes a less unified approach. It relies on separate general statutes for three different classes of municipal corporations: cities, rural municipalities, and northern municipalities. In Québec, meanwhile, the *Municipal Code of Québec* pertains to smaller, rural municipalities, while the *Cities and Towns Act* applies to larger, urban ones. Both specify processes of incorporation and boundary change, as well as institutions and procedures. The grant of authority that defines municipal jurisdiction, however, is contained in a separate general *Municipal Powers Act*. Several Québec municipalities also have their own specific legislation that applies in addition to, rather than instead of, the general statute (see Section 6). The Northwest Territories provides for four types of communities in parallel legislation: the *Cities, Towns, and Villages Act*, the *Charter Communities Act*, the *Hamlets Act*, and the *Tlicho Community Government Act*, the provisions of which largely mirror one another.

1.1 The provincial-municipal relationship: The perennial tension

It is frequently said that Canadian municipalities are "creatures of the provinces." This is a constitutional fact, identical to American and Australian local governments' relationship to their states, and British local authorities' relationship to Parliament. In Anglo-American democracies, general-purpose municipalities are public corporations that derive their existence entirely from enactments of sovereign legislatures and exercise only the authority that is delegated to them by law. The division of powers specified in section 92 of the *Constitution Act, 1867*, assigns "Municipal Institutions in the

1 Conventionally, public bills deal with matters of general provincial interest, and may be introduced by ministers, chairs of legislative standing committees, or individual members. Private bills grant special powers, benefits, or exemptions to a person or persons, including corporations, and may be introduced by members on behalf of municipalities, groups, or individuals.

Province" to provincial jurisdiction. Thus, in the words of former Chief Justice McLachlin in *Catalyst Paper Corp. v North Cowichan (District)*:

> Municipalities do not have direct powers under the Constitution. They possess only those powers that provincial legislatures delegate to them. This means that they must act within the legislative constraints the province has imposed on them. If they do not, their decisions or bylaws may be set aside on judicial review ([2012] 1 SCR 5, at para. 11).[2]

In legal terms, provincial governments therefore have plenary authority over the existence, decision-making authority, institutional structures, boundaries, responsibilities, and financing of municipalities, which are typically constituted as corporations. The three territories lack the status of provinces within the *Constitution Act, 1867*. They are creations of federal statute and exercise delegated authority. In practice, however, the three territorial legislatures exercise exclusive jurisdiction over municipal affairs, akin to that exercised by provinces, as specified in their constituting acts.[3] All authority exercised by municipalities is delegated by the provinces and territories through legislation and regulation.

Despite this narrow legal construction of local governments in Canada and elsewhere as corporations, municipalities are also understood to embody a second purpose: as accountable, democratic governing authorities representing localities.[4] This has been recognized by the courts. In 1997, the Supreme Court found that "municipal councils are democratically elected by members of the general public and are accountable to their constituents in a manner analogous to that in which Parliament and the provincial legislatures are accountable to the electorates."[5] In 2012, Chief Justice McLachlin wrote that elected municipal councillors "serve the people who elected them and to whom they are ultimately accountable."[6] These decisions extended McLachlin's dissent in the 1994 *Shell Canada Products* case, which asserted the existence of a

> fundamental axiom that courts must accord proper respect to the democratic responsibilities of elected municipal officials and the rights of those who elect them. This is important to the continued healthy functioning of democracy at the municipal level. If municipalities are to be able to respond to the needs and wishes of their citizens, they must be given broad jurisdiction to make local decisions reflecting local values.[7]

As such, local governments therefore have a strong claim to legitimacy and autonomy based on the argument that they are the governments that are closest to local communities, are the most sensitive to their needs, and will make the best decisions for them.

This tension between the central and the local has been present since before Confederation, and always will be. In certain domains, municipalities are policy *takers*, effectively functioning as branch offices of provincial ministries, executing decisions made by higher powers; in others, they are policy *makers*,

2 See also *Greenbaum v Toronto*, 1993, 1 SCR 674, in which the Supreme Court of Canada declared: "… municipalities are entirely the creatures of provincial statutes. Accordingly, they can exercise only those powers which are explicitly conferred upon them by a provincial statute." See also *Ontario Public School Boards' Assn. v Ontario (Attorney General)*, 1997 151 DLR (4th) 346, in which the Ontario Supreme Court stated: "Municipal governments and special purpose municipal institutions such as school boards are creatures of the provincial government. Subject to the constitutional limits in s. 93 of the *Constitution Act, 1867* (30 & 31 Vict, c 3. https://canlii.ca/t/56g8v), these institutions have no constitutional status or independent autonomy and the province has absolute and unfettered legal power to do with them as it wills." For a review of case law, see Flynn (2019, s. 2).

3 S. 18(1)(e) of the *Yukon Act* (SC 2002, c 7, https://canlii.ca/t/56fdx) and the *Northwest Territories Act* (SC 2014, c. 2. https://canlii.ca/t/567z5) each establish a legislative power over "municipal and local institutions." S. 23(1)(g) of the *Nunavut Act* (SC 1993, c. 28, https://canlii.ca/t/5431p) establishes a legislative power over "municipal and local institutions in Nunavut."

4 This has been called the "dual aspect" of the municipal corporation. See Rogers (2025, § 1:4).

5 *Godbout v Longueuil (City)*, 1997 3 SCR 844, para. 51.

6 *Catalyst Paper Corp. v North Cowichan (District)*, 2012 1 SCR 5, para. 19.

7 *Shell Canada Products Ltd. v Vancouver (City)*, 1994 1 SCR 231.

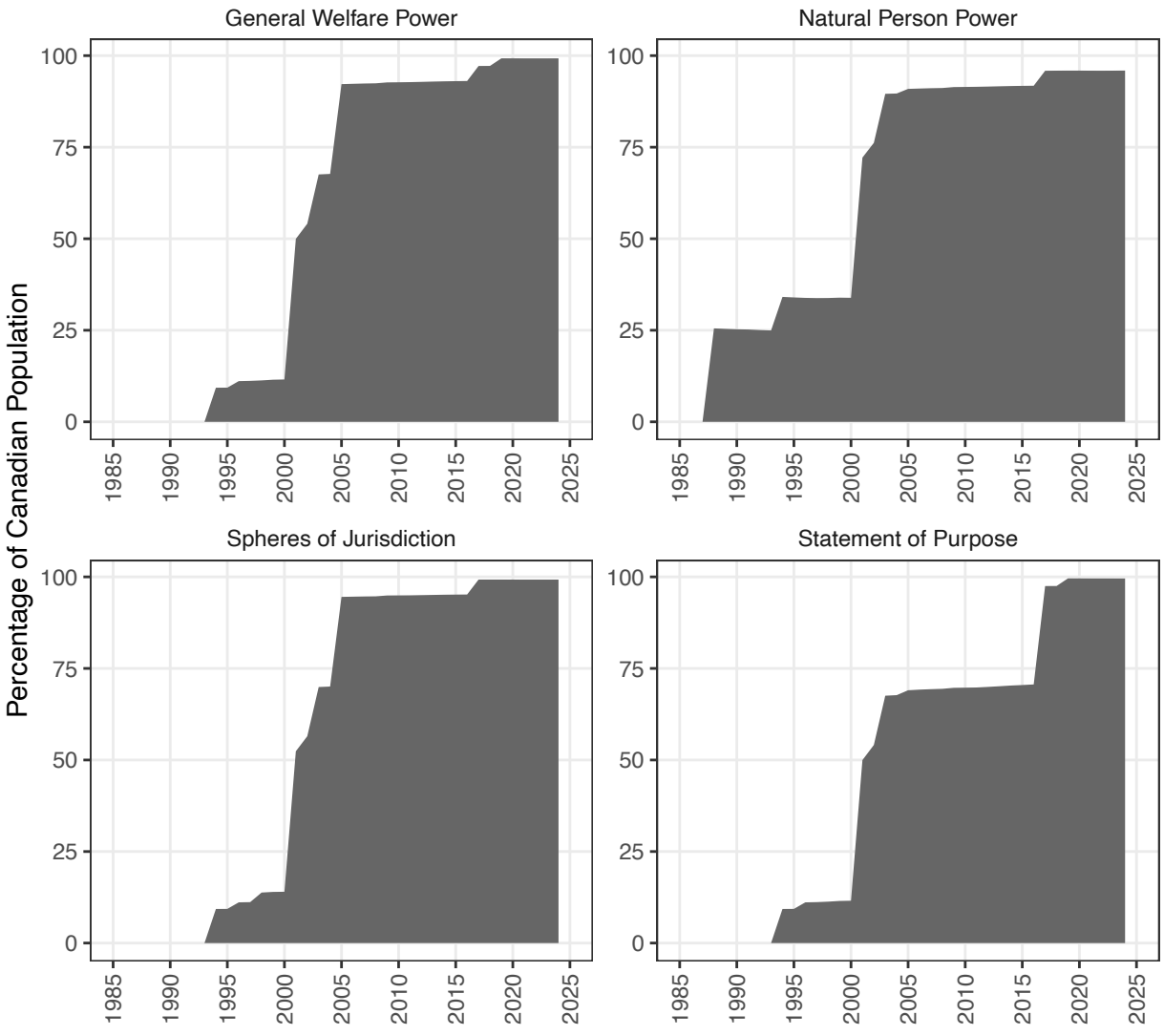
devising innovative solutions to local problems. Canadian governance is a web of federal, provincial, local, and Indigenous governments, agencies, and other public bodies whose authority, resources, and capacities are interwoven in complex ways. The relationship between provincial and local government has shifted as public expectations of local government, and also the policy needs of an increasingly urban population, have changed, and will continue to do so.

1.2 Trends

Three distinct trends are evident since the Second World War, and especially since the mid-1990s. The first is toward *local empowerment*: provinces and territories have generally expanded the scope of authority delegated to local governments. Over time, municipalities were enabled to do more things, and given greater flexibility and discretion to do them, even as they were recognized as democratic governments in addition to being providers of services. Several provinces have established separate legal or regulatory frameworks for large cities, sometimes known as "city charters" (see Section 6).

Table 1.1 summarizes major changes to general municipal law and city charters: the inclusion of a statement of the purpose of local government; a general welfare power; a natural person power; and spheres of jurisdiction (see section 3.1). Figure 1.1 shows that the point of inflection was 2001, when

Figure 1.1: Proportion of the Canadian Population Residing in Municipalities with Reformed Powers



Ontario, Canada's most populous province, followed Alberta and Manitoba in reforming its general municipal legislation. Since then, the other provinces have followed suit, most recently Newfoundland and Labrador. Forty years ago, no Canadians resided within a local government with any of these legal provisions; today, almost all Canadians do. This broadening of local legislative scope and discretion has far-reaching implications, potentially enabling municipalities to enter new policy fields while unlocking local policy innovation.

Table 1.1. Major Changes to Municipal Legislation

Year	Prov./ Terr.	Statute	Added:		
			Natural person power	Spheres	Statement of purpose
1988	QC	*Act Respecting Municipal Territorial Organization* (assigns natural person power to local governments)	•		
1994	AB	*Municipal Government Act* (Bill 31, comprehensive revision)	•	•	•
1996	MB	*Municipal Act*, 1996 (amended the *Municipal Act*, 1988)		•	•
1997–2000	BC	*Municipal Act* (amended several times, ultimately renamed the *Local Government Act*, 2000)		•	•
1998	NS	*Municipal Government Act* consolidated the *Towns Act* and the *Municipal Act*, adding statement of purpose and spheres of jurisdiction		•	
1999	YT	*Municipal Act* (Bill 69, comprehensive revision, replaced the *Municipal Act*, 1986)	•	•	•
2000	QC	Separate municipal legislation was established for specific municipalities as part of municipal restructuring: *Charter of Ville de Gatineau, Charter of Ville de Lévis, Charter of Ville de Longueuil, Charter of Ville de Montréal,* and *Charter of Ville de Québec* (Bill 170)	*	*	
2001	ON	*Municipal Act* (Bill 111, comprehensive revision)	•	•	•
2002	SK	*Cities Act* (Bill 75, comprehensive revision replacing *Urban Municipality Act,* 1984)	•	•	•
2002	MB	*City of Winnipeg Charter Act* (Bill 39, replaced *City of Winnipeg Act,* 1972)	•	•	•
2003	BC	*Community Charter* (Bill 14, replaced certain aspects of the *Local Government Act*; pertains to municipalities only, not regional districts, and not to the City of Vancouver)	•	•	•
2003	NT	*Cities, Towns, and Villages Act*		•	•
2003	NU	*Cities, Towns, and Villages Act (NU)*		•	•
2005	SK	*Municipalities Act* (Bill 106, amendments to mirror *Cities Act,* 2002)	•	•	•
2005	QC	*Municipal Powers Act* (Bill 62, added new fields of jurisdiction for municipalities and regional county municipalities, and also a general welfare power clause)	*	*	
2006	ON	*City of Toronto Act* (Bill 53, detached City from general *Municipal Act*)	*	*	*
2006	ON	*Municipal Act* amendments brought many general *Municipal Act* provisions into line with the *City of Toronto Act*, 2006 (Bill 130)	*	*	*

Continued

Table 1.1. Major Changes to Municipal Legislation

Year	Prov./ Terr.	Statute	Added:		
			Natural person power	Spheres	Statement of purpose
2008	NS	*Halifax Regional Municipality Charter* (Bill 179, detached City from general *Municipal Government Act*)		*	
2009	SK	*Northern Municipalities Act* (Bill 110, amendments to mirror *Cities Act*, 2002, and *Municipalities Act*, 2005)	•	•	•
2017	QC	*An Act to Increase the Autonomy and Powers of Ville de Montréal, the Metropolis of Québec* (Bill 121, an omnibus bill that recognizes Montréal's special role within Québec and confers a number of additional powers) *An Act Mainly to Recognize that Municipalities are Local Governments and to Increase Their Autonomy and Powers* (Bill 122, an omnibus bill that gave municipalities additional specific powers)	*	*	
2017	NB	*Local Governance Act* (Bill 44, replaced *Municipalities Act*, 1973)	•	•	•
2017	PE	*Municipal Government Act* (Bill 58, replaced *Municipalities Act*, 1988, *Charlottetown Area Municipalities Act*, 1988, *City of Summerside Act*, 1988)	•	•	•
2018	AB	"City charter" regulations proclaimed for Calgary and Edmonton that modify the *Municipal Government Act*	*	*	*
2019	NS	Sections added to *Municipal Government Act* and *Halifax Regional Municipality Charter* specifying purposes of municipalities (Bill 92)			•
2025	NL	*Towns and Local Service Districts Act* (replaced the *Municipalities Act*, 1999)	•	•	•

* Amendments to general legislation or special legislation maintains provisions in prior legislation.

The second trend is toward *provincial policy centralization*. Canadian governments dramatically expanded their activities after the Second World War, constructing the modern welfare state, building out health care and education systems, expanding infrastructure of all types, and guiding economic and urban development (Feldman 1974; Taylor 2019, 71–77; Tindal et al. 2013, 186–189). Provincial and territorial governments use legal mandates and conditional grants to direct or steer local priorities, particularly in housing, social policy, and land use planning, either to provide a minimum level and consistent standard of service across the greater jurisdiction or to coordinate the policies of proximate local governments. Since the 1960s, several provinces have unilaterally restructured local government institutions, including altering their boundaries, to increase the municipal system's fiscal and administrative capacity to make and implement policies and deliver services. At the same time, provinces have always made, and continue to make, decisions that affect localities in a variety of ways; for example, the design and siting of infrastructure and facilities and the attraction of localized business investments.

On the face of it, local empowerment and provincial policy centralization embody contradictory impulses. Local governments have more authority and the capacity to exercise it than ever before, yet unilateral provincial government intervention in municipal affairs continues. Provincial intervention and municipal autonomy inevitably coexist. Nevertheless, the question of whether the configuration

of the provincial- and territorial-municipal relationship reflects contemporary values and meets current needs is perennial.

While we reference but do not systematically review case law in this paper, the third trend is *the expansion of judicial deference to local legislation*. Since the 1990s, the Supreme Court of Canada has tended to interpret municipal action more generously, although it has recently re-affirmed that municipalities lack "independent constitutional status."[8]

1.3 Scope and limitations

Our coverage of "local governments" is necessarily selective. There are many types of local public authorities in Canada, including school boards, watershed management boards, and local improvement districts. Our focus here is on general-purpose municipalities and the *enabling* and *constraining* aspects of provincial and territorial legislation: what statute law directly empowers municipalities to do and what it prevents them from doing. Beyond some discussion of development finance, we do not discuss statutes ancillary to this focus, such as legislation governing the conduct of municipal elections or emergencies, nor do we discuss municipalities' regulatory authority over land use, private businesses, and building standards, provincially regulated pooled municipal pension systems, or municipal liability in negligence. We also do not examine the complex and variable nature of intergovernmental funding and administration of specific services, such as policing, ambulance services, public health, childcare, long-term care, and so on, nor do we discuss institutions and rules regarding metropolitan governance and intermunicipal collaboration.[9] To catalogue these intricacies across the ten provinces and three territories would overburden this paper and obscure the broad patterns and trends we seek to identify.

We do not systematically assess whether municipalities make full use of their authority. Indeed, it is certain that most or even all of Canada's approximately 3,500 municipalities do not. Such an assessment would require close examination of specific municipalities and is beyond the scope of this paper; however, in the Conclusion we propose that this should become an active area of research.

Finally, our primary focus is on statutory provisions, not their judicial interpretation in case law, although we reference judicial interpretations of legislation from time to time. Judicial decisions and their interpretation are discussed in legal commentaries; for example, Makuch, Craik, and Meisk (2004) and Rogers (2025). Moreover, while recognizing important differences between common law and civil law jurisdictions in legislative drafting practices and judicial interpretation, we do not comment on these issues.

1.4 Outline of the paper

The remainder of the paper is divided into six sections:

Section 2, Defining the Intergovernmental Relationship, discusses the recent adoption of statutory provisions that define or regulate the provincial- and territorial-municipal relationship. In several jurisdictions, statutes have been amended to recognize municipalities as a "level" or "order" of government or as democratic governments, to specify the purpose of local government, and to establish a provincial duty to consult municipalities before making decisions that affect them, including recognizing the role of municipal associations as interlocutors.

8 *Toronto (City) v Ontario (Attorney General),* 2021 SCC 34; 2021 2 SCR 845.

9 On service provision, see Eidelman, Forman, Hachard, and Slack (2024). On emergency management, see Henstra, ed. (2013). On provincial arrangements for metropolitan governance, see Taylor (2020; and Taylor 2022). On intermunicipal collaboration, see Spicer (2016b). On municipal relations with Indigenous authorities, see Alcantara and Nelles (2016).

Section 3, Powers and Jurisdiction, outlines the powers and areas of jurisdiction authorized in *general* municipal legislation – municipal acts and equivalents that define the authority of all general-purpose local governments within each province or territory or of specific categories of municipalities.

In Section 4, Institutions, we review statutory provisions governing institutional structures: municipal incorporation, internal organization, boundary changes, the organization of municipal councils, the authority to enter into formal relationships with other bodies, and municipal accountability. We focus on the differences in statutes in addressing intermunicipal boundary changes, whether municipalities are empowered to create separate corporations, some of the options available to municipalities to provide services, the methods prescribed for the selection of municipal heads of council, the powers available to heads of council, the independent ability of municipalities to organize their internal structure, statutory measures respecting ethical standards and the accountability of municipal councillors, and legislative protections for municipal politicians.

Section 5, Finance, catalogues the range of revenue sources authorized by provincial or territorial legislation for operating and capital purposes, including the scope of and limitations on borrowing.

Section 6, Asymmetrical Arrangements, describes several provinces' use of special legislation and regulation to establish idiosyncratic powers, jurisdiction, and requirements for large cities, commonly referred to as "city charters." In some cases, these charters have removed specific municipalities from the application of general municipal legislation so that the municipality's authority is derived from the special law; in others they take the form of special laws or regulations "layered" over the general framework.

In the Conclusion, we discuss variations in local government laws among provinces and territories, identify trends, and draw conclusions for the future.

We have made every effort to consistently cite legislation where it is referred to in the text. Excerpts of legislation pertaining to the grant of authority is reproduced in the Appendix. Judicial decisions mentioned are listed in the case references at the end of the document.

2. Defining the Intergovernmental Relationship

Defining the relationship between a province or territory and its municipalities is a central task of local government law. Yet for most of Canada's history, provinces and territories did not articulate in their statutes an explicit purpose for local governments beyond specifying their specific functions; nor did they set out "rules of engagement" for provincial-municipal interactions. This absence makes more sense if we appreciate that in the British constitutional and legal tradition, municipal governments originated as corporations whose voting shareholders were local burghers or landowners (Isin 1992) and that until the 19th century, there was no legal distinction between public and private corporations. Only with the extension of the electoral franchise to the general adult population, rather than property owners only (a process that in some Canadian provinces remained incomplete until well after the Second World War), did municipal councils become democratic, accountable, and representative bodies in any meaningful sense.

Moreover, it was only in the postwar period, as the fiscal entanglements and principal-agent relationships between provinces and territories and municipalities multiplied, that provincial- and territorial-municipal interaction became understood as a form of intergovernmental relations parallel to, or nested within, the federal-provincial and federal-territorial relations that define Canadian federalism. At the same time, provincial- and territorial-municipal relations increasingly involved the

formalized interaction of provincial and territorial governments with municipal associations at an executive or political level (Shott 2015).

This context helps us understand why provinces and territories have only recently added explicit articulations of municipalities' purpose and democratic function, as well as a recognition of intergovernmental relationships, to general municipal laws (see Table 2.1).[10] Each of these additions is discussed in turn.

Table 2.1. Defining the Intergovernmental Relationship

	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU
Statement of municipalities' purpose	• *	•	•	•	•		•	•	•	• ***	•	•	•
Good government	•	•	•	•	•		•	•	•	•	•	•	•
Provide services	•	•	•	•			•	•	•	•	•	•	•
Safe and viable community		•	•	•			•	•	•	•		•	•
Foster well-being	•		•				•			•			
Wise stewardship of public assets	•		•						•				
Foster economic development		•											
Public participation									•		• **		
Intermunicipal collaboration		•											
Responsible and accountable			•		•	• **		• **			• **		
Provincial requirement to consult municipalities	•				•						• **		

* *Community Charter* but not the *City of Vancouver Act*. ** In preamble. *** *Towns and Local Service Districts Act* but not the *City of St. John's, City of Corner Brook, and City of Mount Pearl Acts*.

2.1 Statements of purpose

Most general municipal laws – those of Québec being a conspicuous exception – include a statement of the purpose of local government. Some provinces and territories emphasize providing "good government" and public services. Laws in Alberta, Saskatchewan (mirrored in the *Cities Act* and the *Municipalities Act*), Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, contain almost identical phrasing: "The purposes of a municipality are … (a) to provide good government; (b) to provide services, facilities or other things that, in the opinion of the council

10 For ease of interpretation, summary tables in this report list provinces in order from west to east, followed by territories from west to east.

of the municipality, are necessary or desirable for all or a part of the municipality; and (c) to develop and maintain safe and viable communities."

Some provinces and territories include additional items. Saskatchewan and Prince Edward Island add "providing for stewardship of the municipality's public assets." Alberta adds "to foster the well-being of the environment," while Saskatchewan, New Brunswick, and Newfoundland and Labrador include "to foster economic, social and environmental well-being." Curiously, given the commonly held notion that local government's superior accessibility to the public is an important virtue and rationale for its existence, Prince Edward Island is alone in making "encouraging and enabling public participation in matters affecting the municipality" a basic purpose. Alberta is unique in mentioning intermunicipal collaboration: "to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services."

Other provinces and territories use wording that acknowledges municipalities as accountable and responsible democratic authorities, and even an "order" of government. The Nova Scotia *Municipal Government Act* states in its preamble that "the Province recognizes that municipalities have legislative authority and responsibility with respect to the matters dealt with in this Act" and that "municipalities are a responsible order of government accountable to the people."

Similarly, Ontario's *Municipal Act* (s. 2) states that "Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other acts for the purpose of providing good government with respect to those matters." The wording in the *City of Toronto Act* (s. 1) differs, avoiding mention of the Province as the municipality's creator: "The City of Toronto exists for the purpose of providing good government with respect to matters within its jurisdiction, and the city council is a democratically elected government which is responsible and accountable."

British Columbia's *Community Charter* (s. 1(1)) goes perhaps the furthest in stating that "Municipalities and their councils are recognized as an order of government within their jurisdiction that (a) is democratically elected, autonomous, responsible and accountable, (b) is established and continued by the will of the residents of their communities, and (c) provides for the municipal purposes of their communities."

Québec's *Municipal Powers Act* and *Cities and Towns Act* do not articulate a purpose for local government. However, the preamble to Québec's omnibus Bill 122, *An Act Mainly to Recognize that Municipalities are Local Governments and to Increase Their Autonomy and Powers*, 2017, states that "the National Assembly recognizes that municipalities are, in the exercise of their powers, local governments that are an integral part of the Québec State" and that "elected municipal officers have the necessary legitimacy, from a representative democracy perspective, to govern according to their powers and responsibilities."[11]

2.2 Requirement to consult municipalities

British Columbia and Ontario have also legislated a requirement on the part of the Province to consult municipalities, individually or collectively, before making decisions that affect them. Building on its recognition of municipalities as an order of government, section 2 of British Columbia's *Community Charter* articulates principles to govern the relationship between the Province and municipalities:

11 *An Act Mainly to Recognize that Municipalities are Local Governments and to Increase Their Autonomy and Powers,* SQ 2017 c 13. https://canlii.ca/t/52z5v

> mutual respect, a requirement to consult, and a commitment to resolving conflict through negotiation. Part 9, division 1 of that act sets the parameters of provincial-municipal consultations, and division 3 establishes an arbitration procedure to resolve provincial-municipal and intermunicipal disputes.

Section 3(1) of Ontario's *Municipal Act* states that "The Province of Ontario endorses the principle of ongoing consultation between the Province and municipalities in relation to matters of mutual interest and, consistent with this principle, the Province shall consult with municipalities in accordance with a memorandum of understanding entered into between the Province and the Association of Municipalities of Ontario."[12] The City of Toronto and the Province of Ontario have signed a formal cooperation agreement.[13]

Other provinces, including Alberta and Québec, have also adopted memoranda of understanding (MOUs) with municipal associations or individual municipalities that establish a duty to consult, either generally or on specific tasks. In 2015, the Government of Alberta, the Alberta Urban Municipalities Association, and the Alberta Association of Municipal Districts and Counties (now known as Rural Municipalities of Alberta) established a framework MOU to regulate mutual consultation during the review of the *Municipal Government Act* (Government of Alberta 2015).

While Québec law does not oblige the Province to consult with municipalities, it does establish the Table Québec-municipalités to advise the minister, comprised of municipal association leaders and the mayors of Montréal and Québec City, as well as parallel "tables" for Montréal and Québec metropolitan planning purposes (*Act Respecting the Ministère des Affaires municipales, des Régions et de l'Occupation du Territoire*, s. 21, enacted 1998).[14] In parallel to Bill 121,[15] which recognized Montréal's position as the major metropolis of Québec and conferred additional powers and resources on it, the 2018 "Réflexe Montréal" framework agreement also outlines a delegation of responsibility from the province to the municipality (Government of Québec 2016).

The preamble of the Yukon's *Municipal Act* states that "the Government of the Yukon and municipal governments shall respect each other's responsibilities to provide programs and services to the people of the Yukon," and section 5 (as amended in 2015) states that "The Government of Yukon must consult with the Association of Yukon Communities on any amendments that a Minister proposes to this Act."

2.3 Conclusions

The potential legal effect of the explicit articulation of municipal purposes, including their recognition as accountable and responsible governments, is unclear, because it has not been the subject of significant judicial interpretation. Such statements do not establish powers, nor do they alter provincial governments' constitutional supremacy over municipal affairs. Municipal corporations remain the legal creations of provincial and territorial legislatures, which may alter their powers and institutions as they see fit, and have shown a willingness to do so to further their interests and policy objectives.

12 This is paralleled in the *City of Toronto Act*, 2006: "The Province of Ontario endorses the principle that it is in the best interests of the Province and the City to work together in a relationship based on mutual respect, consultation and co-operation." (s. 1(2)) and "For the purposes of maintaining such a relationship, it is in the best interests of the Province and the City to engage in ongoing consultations with each other about matters of mutual interest and to do so in accordance with an agreement between the Province and the City." (s. 1(3)).

13 See "Agreement on Cooperation and Consultation between the City of Toronto and the Province of Ontario." (Updated: April 17, 2024.) https://www.ontario.ca/page/agreement-cooperation-and-consultation-between-city-toronto-and-province-ontario

14 *Act Respecting the Ministère des Affaires Municipales, des Régions et de l'Occupation du Territoire*, CQLR c M-22.1. https://canlii.ca/t/56hvp

15 *An Act to Increase the Autonomy and Power of Ville de Montréal, the Metropolis of Québec*, SQ 2017 c 16. https://canlii.ca/t/530jf

These statements may, however, play an important symbolic role insofar as they support provisions that delegate specific authority to municipalities (see Section 3) and underlie formalized intergovernmental relationships, such as memoranda of understanding or Québec's *tables*. At a general level, statutory recognition of municipalities' democratic function, supported by legislated duties to consult, sets a collaborative and respectful tone that departs from the traditional framing of municipal governments as constitutionally subordinate "policy takers."

3. Powers and Jurisdiction

3.1 Grant of authority

All municipal legislation contains a *grant of authority*; that is, a set of provisions that delegate to municipalities particular roles and responsibilities. These can be more or less general in their construction, at one extreme enabling municipalities to perform only explicit enumerated functions (known as *express powers*); at the other defining general fields (known as *spheres of jurisdiction*) within which municipalities have broad discretion. Grants of authority are both enabling and constraining in that they not only create municipal authority, they also limit it to certain subjects and circumscribe its use. Generally, grants of authority have become more expansive since the 1990s, when the cycle of statutory modernization began with Alberta's revised 1994 *Municipal Government Act* (see Table 3.1).

Table 3.1. Grant of Authority

Power	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU
General welfare power	•	•	•	•	•	• **	•	•	•	•	•	•	•
Express powers	•	•	•	•	•	•	•	•	•	•	•	•	•
Spheres of jurisdiction	• *	•	•	•	•	• **	•	•	•	• ***	•	•	•
Broad interpretation	• *	•	•	•	•	•	•	•	•	• ***	•	•	•

* *Community Charter* but not *City of Vancouver Act*. ** Local municipalities only. *** *Towns and Local Service Districts Act* but not the *City of St. John's, City of Corner Brook, and City of Mount Pearl Acts*. See the Appendix for excerpts of these provisions.

Legislation in most provinces and territories also includes a "broad interpretation" clause stating that municipalities are empowered to govern as they see appropriate within their areas of jurisdiction, courts should interpret municipal actions generously, and municipalities should have the flexibility to respond to changing and unforeseen circumstances.

We note that these concepts, and especially the distinction between express powers and spheres of jurisdiction, are more difficult to discern in the Québec context due to the operation of the civil law.[16] We have attempted to identify elements in Québec legislation that most closely resemble those found in other Canadian jurisdictions. The operation of the civil law may result in the more restrictive interpretation of enumerated powers, however characterized, than under the common law.

16 Frate and Robitaille (2021, 96–97); however, note that the creation of broadly defined areas of authority in Québec's *Municipal Powers Act*, 2006, dramatically widened the scope of municipal action within those areas compared to the narrowly constructed enumerated powers found in the *Municipal Code* and *Cities and Towns Act*.

3.1.1 General welfare power

A municipality's general welfare power typically refers to an omnibus provision in the provincial enabling statute that gives municipalities power to act for their own well-being, and for the well-being of their residents. Provincial legislation uses a variety of phrases to describe the general welfare power of municipalities. Alberta's *Municipal Government Act*, 2004, gives municipalities power to pass bylaws for "the safety, health and welfare of people and the protection of people and property" (s. 7). The Ontario *Municipal Act* empowers municipalities to pass bylaws for the "economic, social and environmental well-being of the municipality, and the health, safety and well-being of persons" (s. 11).

Québec's *Municipal Powers Act*, 2005, gives local municipalities the power to pass bylaws "to ensure peace, order, good government, and the general welfare of its citizens" (s. 85). This does not extend to regional county municipalities, although section 99 states that "A regional county municipality may make by-laws on any regional matter relating to its citizens that is not otherwise regulated." The limits of this power are not clear.

In some jurisdictions, the general welfare power arises by implication through an interrelationship between the statutory "purposes" of the municipality described in the empowering statute(s) and the powers afforded to the municipality to achieve its purposes. For example, in British Columbia, sections 3 and 4(1) of the *Community Charter* provide that:

> [t]he purposes of this Act are to provide municipalities and their councils with… (b) the authority and discretion to address existing and future community needs, and (c) the flexibility to determine the public interest of their communities and to respond to different needs and changing circumstances of their communities.

3.1.2 Broad interpretation

Although their wording varies, "broad interpretation" clauses directed to the courts now appear in all provinces and territories' general legislation (but not all charter legislation), often in connection to the municipal corporation's bylaw-making power. For example, section 4(1) of British Columbia's *Community Charter* states: "The powers conferred on municipalities and their councils under this Act or the Local Government Act must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes." Section 4(1) of the Northwest Territories' *Cities, Towns, and Villages Act* states: "The general legislative powers of a municipal corporation to make bylaws are to be interpreted as giving broad authority to council to govern the municipality in whatever way council considers appropriate, within the jurisdiction given to a municipal corporation under this or any other enactment, and to address issues not contemplated at the time this Act is enacted." Similar wording regarding "appropriateness" and the ability to address future issues appears in most provincial and territorial laws. Québec's *Municipal Powers Act*, 2005, simply states "The provisions of the Act are not to be interpreted in a literal or restrictive manner" (s. 2).

3.1.3 Express powers

Before the 1990s, and dating back to the colonial period, most municipal legislation restrictively defined municipalities' jurisdiction by enumerating lists of discrete powers (Lidstone 2007, 402–403). Municipalities were authorized to perform only those functions that were expressly included – hence its characterization as the *express powers* doctrine. This approach was reinforced by the Canadian courts prior to the 1990s, which Makuch, Craik, and Meisk (2004, 84) describe as follows:

> [t]he courts, as a result of this inferior legal position, have traditionally interpreted narrowly statutes respecting grants of powers to municipalities. This approach may be described as "Dillon's Rule," which states that a municipality may exercise only those powers expressly conferred by statute, those powers necessarily or fairly implied by the express power in the statute, and those indispensable powers essential and not merely convenient to the effectuation of the purposes of the corporation.

Listing express powers has the advantage of affording municipalities certainty that bylaws and regulations passed in conformity with the enumerated powers will not be found to be *ultra vires* – that is, beyond municipal jurisdiction. Yet no list of express powers can be exhaustive. In Canada, as in the United States, the need to adapt to changing circumstances has led municipalities to petition the legislature for amendments to general legislation or for special legislation to permit additional functions. The consequent burden on legislative committees spurred the creation of municipal boards and departments and ministries of municipal affairs in the early 20th century (Taylor 2019, 57–59). The desire for greater flexibility led to the development of the "spheres of jurisdiction" approach and the insertion of "broad interpretation" clauses.

3.1.4 Spheres of jurisdiction

In the 1990s, provincial governments began to amend their municipal laws to grant municipalities authority over broadly defined categories, called *spheres of jurisdiction*, with fewer supplementary express powers. Alberta's 1994 statute, the first to establish spheres of jurisdiction, appears to have coined the phrase (Forgrave 1995; Fyfe 1995). This legislative scheme is now used in the municipal statutes of all provinces and territories, with considerable variation, and in some separate city statutes, including those for Winnipeg (a hybrid form), Toronto, and Montréal. Rather than providing municipalities with a "laundry list" of specific and narrow powers beyond which they cannot stray, the spheres of jurisdiction approach is intended to provide more flexibility. Nevertheless, as Table 3.1 shows, all provincial and territorial statutes retain some express powers that apply to specific municipal needs.

In Ontario, the *Municipal Act*, 2001, authorizes separate lists of broadly worded spheres for single-, upper- and lower-, and lower-tier municipalities (s. 10(2), s. 11(2), and 11(3), respectively), along with a lengthy list of specific powers (ss. 24–149). In Québec, the *Municipal Powers Act*, 2006, grants local municipalities powers within "fields" and assigns further express powers to local municipalities and regional county municipalities. In British Columbia, the *Community Charter* distinguishes between spheres exclusive to municipal governments and spheres shared by the Province and municipalities, which require provincial sanction (s. 9). In its *Town and Local Service Districts Act*, Newfoundland and Labrador distinguishes between mandatory and discretionary areas of authority (ss. 7(1) and 8(1)).

Most provinces and territories enable the making of bylaws with respect to nuisances; the safety, welfare, and protection of people and property; the activities of businesses; transportation systems; animals; public places; and municipal service delivery (see Table 3.2). A majority also authorize local legislation regarding the enforcement of bylaws, public utilities and assets, and the natural environment and land management, including vegetation and pesticides. Beyond these areas, there is considerable variation in the enumerated spheres. Roughly half of the jurisdictions provide specific authority over roads, on- and off-road vehicles, and pedestrians. A smaller proportion mention building standards, building demolition, vacant buildings, and expropriation and property dealings. Only three name fire protection and economic development, and two include policing – all typical local functions – as spheres of jurisdiction. The inclusion of specific items such as pawnbrokers (Nova Scotia), tourism levies (New Brunswick), libraries (Prince Edward Island), and arrears sales (Newfoundland and Labrador) suggests a kind of "scope creep," whereby lists of ostensibly broad spheres of jurisdiction are populated with narrow subjects that might otherwise be captured by larger concepts. Indeed, the number and specificity of spheres is higher in more recently updated legislation. While Alberta's 1994 statute contains nine items, Newfoundland and Labrador's *Towns and Local Service Districts Act*, the most recent legislation to be updated, has 24. The inclusion of narrow items in lists of spheres of

jurisdiction may reflect an enduring "express powers" mentality – that powers not explicitly named will be neither exercised nor prioritized by municipalities, nor considered *intra vires* by the courts. As most of the provinces that have more recently updated their legislation are also among the smaller and less urbanized, it may also reflect the absence of secondary legislation that assigns authority and responsibilities to municipalities in these areas.

Table 3.2. Summary of enumerated spheres of jurisdiction in general municipal legislation

	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU	Number of jurisdictions
Number of Clauses → Concept	**16**	**9**	**12**	**19**	**11**	**8**	**19**	**14**	**21**	**24**	**16**	**11**	**8**	
Nuisances	(h)	(c)	(d)	(c)	128(1)	(6)	(c)	(d)	(i)	8(1)(f)	(m)	(c)	(c)	13
Welfare, safety, and protection of people and property	(g)	(a)	(b)	(a)	(6), (8)	(7)	(a)	(a), (b)	(a)	8(1)(a)	(a)	(a)	(a)	13
Business activities	8(6)	(e)	(h)	(n), (n.1), (n.2)	(11)		(h)	(f)	(c)	8(1)(e)	(c)	(f)	(e)	12
Transport systems, airports		(d)	(e)	(m)	11(3) (2)	(8)	(g)	(e)	(h)	8(1) (i)	(k–l)	(d)	(d)	12
Animals	(k)	(h)	(k)	(k)	(9)		(k)		(l)	8(1)(k)	(o)	(i)	(g)	11
Public places	(b)	(b)	(c)	(b)			(b)	(c)	(f)	8(1)(d)	(f)	(b)	(b)	11
Municipal services	(a)	(f)	(i)		(7)		(i)	(k)		8(1)(c)	(b)	(h)	(f)	10
Enforcement of bylaws		(i)		(o)			(r)	(l)	(t)	8(1)(q)	(p)	(k)	(h)	9
Natural environment, land management, vegetation, pesticides	(c), (j)				(5)	(4)	(q)	(j)	(k), (m)	8(1) (l–m)	(o)	(e)		9
Public utilities and assets		(g)	(j)	(l)	11(3) (4)	(3)	(j)		(b)	8(1)(b)		(g)		9
Buildings, structures	(l)				(10)		(e)		(g), (s)	(c), 8(1) (q)	(h)			6
Roads and highways			(g)	(d–f)	11(3) (1)		(p)			8(1)(g)	(j)			6
Maintaining safe properties				(c)			(d)	(jb)	(s)	8(1)(f)				5
Vehicles and pedestrians			(f)				(o)			8(1)(h)	(i)	(d)		5
Vehicle parking				(c)	11(3) (1,8)		(o)			8(1)(j)	(i)			5
Building demolition			(l)						(g)	(c)	(h)			4
Cemeteries	(f)								(j)	8(1)(p)	(n)			4
Explosives, fireworks, blasting	(d)			(j)			(f)				(a)			4
Parks and recreation					11(3) (5)	(1)			(o)	8(1)(n)				4
Public health, sanitation, waste management	(i)				11(3) (3)	(5)				(b)				4

Continued

Table 3.2. Summary of enumerated spheres of jurisdiction in general municipal legislation

	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU	Number of jurisdictions
Number of Clauses → Concept	**16**	**9**	**12**	**19**	**11**	**8**	**19**	**14**	**21**	**24**	**16**	**11**	**8**	
Weapons, firearms	(e), 8(5)			(j)					(n)		(a)			4
Economic development					11(3) (10)	(2)			(q)					3
Expropriation and property dealings							(m), (n)		(d–e)		(d–e)			3
Fire protection				(i)						(e–f)	(a)			3
Municipal governance, structures, management, rules, accountability					(1–3)					(a)		(j)		3
Signs, advertising	8(4)				(10)				(g)					3
Off-road vehicles				(g)			(o)			8(1)(h)				2
Police							10 (3–4)		(u)					2
Soil displacement	(m)			(c)										2
Vacant dwellings				(c.1)				(ja)						2
Drainage				(h)	11(3) (6)									2
Ambulance services											(a)			1
Arrears sales										(d)				1
Automatic machines								(g)						1
Civic holidays								(h)						1
Curfews											(g)			1
Libraries									(r)					1
Pawnbrokers								(i)						1
Peace, order, and good government			(a)											1
Pension and benefit plans									(p)					1
Rental conversions				(c.2)										1
Tourism levy							(m.1)							1

Note: See the Appendix for wordings, which vary. The number of clauses may not match the number of shaded cells because some clauses enumerate multiple spheres. Clauses cited are within the following sections: BC, *Community Charter* s. 8(3) unless otherwise stated; AB, *Municipal Government Act*, s. 7; SK, *Cities Act, Municipalities Act,* and *Northern Municipalities Act*, s. 8(1); MB, *Municipal Act,* s. 232(1); ON, *Municipal Act*, s. 10(2) unless otherwise stated; QC, *Municipal Powers Act*, s. 4; NB, *Local Governance Act*, s. 10(1) unless otherwise stated; NS, *Municipal Government Act*, s. 172(1); PE, *Municipal Government Act*, s. 180; NL, *Towns and Local Service Districts Act*, s. 7(1) unless otherwise stated; YT, *Municipal Act*, s. 265; NT, *Cities, Towns, and Villages Act*, s. 70(1); and NU, *Cities, Towns, and Villages Act (Nu)*, s. 54.2.

While the proliferation of spheres suggests a blurring of the boundary between expansive spheres of jurisdiction and narrow express powers, the key conceptual distinction between the two regimes is

not so much the specificity of individual enumerated powers, but the presumption that councils have a broad and open-ended scope to legislate within them. Broad interpretation clauses therefore play a potentially important role in "opening up" the meaning of enumerated powers, which might otherwise be narrowly construed by policymakers and the courts.

3.1.5 Judicial interpretation

Before the 1990s, municipal powers were usually interpreted narrowly to constrain a municipality's power to illegitimately restrict or control its residents' common law or civil law rights (Lidstone 2007, 403–404). Lidstone argues that the broad interpretation of the municipal general welfare power began to gain acceptance at the time of the Supreme Court of Canada's decision in the 1994 *Shell Canada Products* case.[17] In that decision, the dissent, written by Justice McLachlin, urged that courts "adopt a generous, deferential standard of review toward the decisions of municipalities" in part because "a generous approach to municipal powers is arguably more in keeping with the true nature of modern municipalities" (Lidstone 2007, 405–406).

Following the *Shell Canada Products* decision, the Supreme Court of Canada has tended to adopt the reasoning of the minority in that case, and has given impugned municipal bylaws a broad and deferential interpretation in the *Rascal Trucking*, *Spraytech*, and *United Taxi Drivers* decisions (see Makuch and Schuman 2015, s. 1).

The Supreme Court and lower courts have been guided by the "broad interpretation" clauses inserted into revised municipal laws. The Supreme Court ruled in *United Taxi Drivers' Fellowship of Southern Alberta v Calgary (City)* that even though the *Municipal Government Act* did not explicitly give the City of Calgary authority to regulate taxis, it could nonetheless do so by virtue of its general powers. The decision directly referenced the new "modern" style of statutory drafting:

> The evolution of the municipality has produced a shift in the proper approach to interpreting statutes that empower municipalities. A broad and purposive approach to the interpretation of municipal legislation reflects the true nature of modern municipalities which require greater flexibility in fulfilling their statutory purposes and is consistent with the Court's approach to statutory interpretation generally. The *Municipal Government Act* reflects the modern method of drafting municipal legislation which must be construed using this broad and purposive approach.

Similarly, in the 2005 *Croplife* decision, the Ontario Court of Appeal engaged in a lengthy and affirmative discussion of the shift from Dillon's Rule to the "benevolent construction" of municipal powers following *Shell Canada Products*, complemented by the renovation of enabling legislation.[18]

In *Out-of-Home Marketing*, the Ontario Court of Appeal upheld the City of Toronto's third-party signs tax, enacted in 2010.[19] The Court rejected the appellant's arguments that the tax was not a direct tax and that it was discriminatory. Moreover, the Court overruled the initial ruling that the tax could apply only to billboards erected after the tax's introduction, stating that such a limitation or restriction was counter to the spirit of the *City of Toronto Act*'s broad grant of authority. Similarly, in *Toronto Livery Association*, the Ontario Court of Appeal took note of the enabling intent of the 2006 *City of Toronto Act*, stating, "Importantly, the powers conferred on the City by the *Toronto Act* [sic] attract an expansive and deferential interpretation," and that the act's "broad authority" clause is "far-reaching."[20]

17 *Shell Canada Products Ltd. v Vancouver (City),* 1994 1 SCR 231.
18 *Croplife Canada v Toronto (City)*, 2005 CanLII 15709 ONCA, paras. 16–28.
19 *Out-of-Home Marketing Association of Canada v Toronto (City),* 2012 ONCA 212.
20 *Toronto Livery Association et al. v Toronto (City)*, 2009 ONCA 535, paras. 29–30.

Nevertheless, the provinces and territories retain original authority over municipalities within their assigned fields of jurisdiction, as shown in the 2019 decision of the Ontario Court of Appeal in the Toronto city wards case.[21] This decision, which found that Ontario had not interfered with citizens' right to free expression under the Charter of Rights and Freedoms in unilaterally changing the size of the city council, was upheld by a 5–4 Supreme Court of Canada decision in 2021.[22] In their dissent, Justices Abella, Karakatsanis, Martin, and Kasirer argued that municipal elections are subject to an unwritten principle of democracy that was contravened by the Province, and that the local democratic sphere should be respected and protected regardless of municipalities' deriving their existence and delegated authority from provincial legislation. However, the majority's ruling makes an unambiguous statement of the limits of using unwritten constitutional principles to invalidate legislation:

> In short, and despite their value as interpretive aids, unwritten constitutional principles cannot be used as bases for invalidating legislation, nor can they be applied to support recognizing a right to democratic municipal elections by narrowing the grant to provinces of law-making power over municipal institutions in s. 92(8) of the *Constitution Act, 1867*. Nor can they be applied to judicially amend the text of s. 3 of the *Charter* to require municipal elections or particular forms thereof. The text of our Constitution makes clear that municipal institutions lack constitutional status, leaving no open question of constitutional interpretation to be addressed and, accordingly, no role to be played by the unwritten principles. [84]

Municipalities exercise their broad authority within this foundational restriction.

3.2 Natural person power

Natural person power enables a corporation to act as the legal equivalent of a person in areas such as entering contracts, suing or being sued, hiring and firing employees, and undertaking any other corporate acts not prohibited by law. During the 1970s, most provinces modernized their corporation laws to give business corporations expansive powers akin to those of a human being – in legal terms, a "natural person." In recognition of municipalities' legal status as corporations empowered to exercise powers on behalf of their electors and residents, some provincial and territorial governments, beginning with Québec in 1988 and Alberta in 1994, extended natural person power to municipalities. The grant of natural person power does not create new enumerated powers or spheres of jurisdiction, but potentially expands the municipality's ability to act independently within its areas of jurisdiction as established in provincial or territorial law. For example, acting as a natural person may enable municipalities to create corporations, enter into contracts, sue and be sued, and, if not provided for in other legislation, hire and fire their employees without explicit legislative provision.

3.2.1 Uneven extension and limitations

As Table 3.3 shows, municipalities have been granted "natural person power" in some or all of the municipalities in nine of the ten provinces – British Columbia, Alberta, Saskatchewan, Manitoba (Winnipeg only), Ontario, Québec, New Brunswick, Prince Edward Island, and Newfoundland and Labrador – as well as the Yukon Territory. Generally, natural person power is restricted to carrying out municipal purposes or powers contained in enabling legislation.

Québec's *Act Respecting Municipal Territorial Organization*, initially enacted in 1988, provides that local municipalities (s. 13) and regional county municipalities (s. 210.5) are "a legal person [*'personne morale'*]

21 *Toronto (City) v Ontario (Attorney General),* 2019 ONCA 732.
22 *Toronto (City) v Ontario (Attorney General),* 2021 SCC 34.

of public right consisting of the inhabitants and ratepayers of the territory under its jurisdiction."[23] The *Charter of Ville de Montréal*, 2000 (s. 2) also states the City is a "legal person."[24]

Alberta was the first province outside of Québec to extend natural person power to all municipalities in its 1994 *Municipal Government Act*. Section 8(1) of British Columbia's *Community Charter* extends natural person power to all incorporated municipalities in the province, "subject to any specific conditions and restrictions established under this or another Act" (s. 8(10)), the exception being the City of Vancouver, which is governed by its own legislation that does not confer natural person power. Natural person power is also not available to the province's 47 regional districts, which are principally governed by the *Local Government Act*.

Table 3.3. Natural Person Power

Prov./ Terr.	Included	Not included
BC	*Community Charter* (s. 8(1), subject to s. 8(10))	*Local Government Act* (for regional districts) *Vancouver Charter*
AB	*Municipal Government Act* (ss. 6, 11(1)) Also Calgary and Edmonton Charters, by reference	
SK	*Cities Act* (ss. 4(3), 4(4)) *Municipalities Act* (ss. 4(3), 4(4)) *Northern Municipalities Act* (ss. 4(3), 4(4)) *Lloydminster Charter* (s. 12(3))	
MB	*City of Winnipeg Charter Act* (s. 7(1), subject to 7(2))	*The Municipal Act*
ON	*Municipal Act* (s. 9, subject to s. 17) *City of Toronto Act* (s. 7, subject to s. 13)	
QC	*Gatineau Charter* (s. 2) *Lévis Charter* (s. 2) *Longueuil Charter* (s. 2) *Montréal Charter* (s. 2) *Ville de Québec Charter* (s. 2) *Act Respecting Municipal Territorial Organization* (s. 13, 210.5)	*Cities and Towns Act* *Municipal Powers Act* *Municipal Code of Québec*
NB	*Local Governance Act* (s. 6(1) subject to s. 6(2))	
NS		*Municipal Government Act* *Halifax Regional Municipality Charter*
PE	*Municipal Government Act* (s. 4(2))	
NL	*Towns and Local Service Districts Act* (s. 4)	*City of St. John's Act* *City of Corner Brook Act* *City of Mount Pearl Act*
YT	*Municipal Act* (s. 223.01(2))	
NT		*Cities, Towns, and Villages Act*, 2003
NU		*Cities, Towns, and Villages Act (Nu), 1988*

23 *Act Respecting Municipal Territorial Organization*, CQLR c O-9. https://canlii.ca/t/56kl9
24 *Charter of Ville de Montréal, Metropolis of Québec*, CQLR c C-11.4. https://canlii.ca/t/56kk9

Ontario restricts the application of the natural person power. As amended in 2001, the Ontario *Municipal Act* grants natural person power to all municipalities "for the purpose of exercising its authority under this or any other Act" (s. 9).[25] The provincial government has interpreted this to mean that the natural person power is not an independent source of authority for a municipality to act in a particular area, but applies only to help a municipality achieve its purposes within a properly authorized sphere, matter, or power (Ontario 2014, 33). Moreover, section 17 of the *Municipal Act* sets limits on financial transactions. For example, the municipal power to levy taxes is prohibited unless otherwise authorized. This is mirrored in section 13 of the *City of Toronto Act*.

Nova Scotia, the Northwest Territories, and Nunavut do not grant municipalities natural person power. In 2017, Halifax Regional Municipality lobbied the government of Nova Scotia for natural person power, but this request has not been taken up (Halifax Regional Council 2017).

3.2.2 Judicial interpretation

The courts have upheld the municipal exercise of natural person power. The 2005 decision of the B.C. Supreme Court in *Kitimat (District of) v Alcan Inc.* was that the exercise of the natural person power under the *Community Charter* was not narrowed by the fact that more detailed corporate powers are set out expressly elsewhere in the legislation, and that the natural person power supplements the enumerated spheres and powers in the statute (Lidstone 2007, 415–416). In the 2006 *St. Paul (County) No. 19 v Belland* case, the Alberta Court of Appeal approved a municipal council's application for an injunction against a property owner based on the natural person power in section 6 of the *Municipal Government Act*.

3.3 Expropriation of property

Expropriation – the unilateral purchase of private property by the government – is an important tool to achieve public purposes. All general municipal statutes, as well as several city-specific empowering statutes, give municipalities the power to expropriate land. In all instances, expropriation is an express power outside the general list of spheres or areas of municipal power. In Saskatchewan and Newfoundland and Labrador, the power of municipalities to expropriate is found in a separate statute. Laws authorizing expropriation are summarized in Table 3.4. In all provinces, municipalities cannot expropriate property owned or occupied by the federal or provincial government or any of their agencies.

3.3.1 Economic development purposes

As Table 3.4 shows, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, and New Brunswick allow municipal expropriation for economic development purposes – that is, the compulsory purchase of private land for development by third parties. Municipalities may exercise this power to attract employment or regenerate blighted areas. The other provinces and territories restrict expropriation to public undertakings, such as the construction of public facilities and infrastructure.

3.3.2 Ministerial approval

Some provinces and territories impose additional conditions on a municipality's power to expropriate. A municipality in Newfoundland and Labrador may expropriate property, or an interest in land, only with the approval of the provincial minister (*Urban and Rural Planning Act*, s. 50).[26] In Québec, municipalities governed by the *Cities and Towns Act* must have the approval of the provincial

25 This provision is mirrored in section 7 of the *City of Toronto Act,* 2006.

26 *Urban and Rural Planning Act*, 2000 SNL 2000, c U-8. https://canlii.ca/t/56f65

government to expropriate property held or occupied by railway companies; or by religious, charitable or educational institutions or corporations; or to expropriate cemeteries, bishops' palaces, parsonages, and their dependencies; or a wind farm; or a hydroelectric power plant (s. 571). A similar provision, requiring provincial consent, appears in the *Municipal Code of Québec* (s. 1104).

Table 3.4. Expropriation of Property

Prov./ Terr.	Can expropriate for economic development purposes	Cannot expropriate for economic development purposes	Ministerial approval required
BC		*Local Government Act* (s. 289, re: regional districts) *Community Charter* (s. 31)	
AB	*Municipal Government Act* (s. 14) (also Calgary and Edmonton Charters, by reference)		
SK	*Municipal Expropriation Act*		
MB	*Municipal Act* (s. 254)		
ON	*Municipal Act*, 2001 (s. 6)		
QC		*Municipal Code of Québec* (s. 1097) *Cities and Towns Act* (s. 570)	Partial (see text)
NB	*Local Governance Act* (s. 184)		
NS	*Municipal Government Act* (s. 52)		
PE		*Municipal Government Act* (ss. 180, 188)	
NL		*Urban and Rural Planning Act* (s. 50)	Yes – s. 50
YT		*Expropriation Act 2002* (Sec 2(1))	
NT		*Expropriation Act 1988* (s. 3)	
NU		*Expropriation Act 1988 (Nu)* (s. 3)	

3.3.3 Process requirements

In most provinces, municipal expropriation is initiated by a bylaw or resolution of council, and the process is set out in provincial statute. For example, Prince Edward Island has established a more rigorous expropriation process; a municipality may expropriate an interest in land only by a vote of two-thirds of the municipal councillors present at a regular open public meeting of council held *following* a regular open public meeting of council called upon prior notice of the proposed expropriation – in other words, two meetings are required (s. 189).

3.3.4 Judicial interpretation

The acceptability of government expropriation for potential private benefit is controversial in the United States, especially following the U.S. Supreme Court's 2005 decision in *Kelo v City of New London*. In that decision, the court accepted the municipality's broad characterization of a "public use" to justify the expropriation of single-family homes to develop an office park with parking and retail services (Malloy 2008, 9).

In Canada, the Courts of Appeal in two provinces that permit municipal expropriation for economic development purposes (Manitoba and Ontario) have allowed municipalities to expropriate private property for the benefit of, at least in part, other private third parties (*Fouillard v Ellice (Rural Municipality)*; *Vincorp Financial Ltd. v Oxford (County)*). The Supreme Court of Canada refused to entertain appeals of

these cases, but it is possible that, in future, the Supreme Court may reconsider the issue if an example of unreasonable municipal expropriation for private benefit reaches the Court.[27]

3.4 Asserting the provincial interest

Several general and special provincial laws include provisions that limit municipal authority in order to assert a provincial interest. In 2006, the Ontario government added new subsections to the *Municipal Act* (s. 451.1), mirrored in the *City of Toronto Act* (s. 25), which authorize the Lieutenant Governor in Council to pass regulations restricting the authority of a municipality to exercise powers otherwise granted by legislation. Regulations made under the applicable provincial statute expire after 18 months and cannot be renewed.

Similarly, section 281(1) of British Columbia's *Community Charter* empowers the provincial government to act by regulations to:

> (b) provide an exception to or a modification of a requirement or condition established by an enactment;
>
> (c) establish any terms and conditions the Lieutenant Governor in Council considers appropriate regarding a power, modification or exception under this section;
>
> (d) authorize a minister to establish any terms and conditions the minister considers appropriate regarding a power, modification or exception under this section.

This language is less explicit than the Ontario statutes' override sections. However, since the *Community Charter* characterizes a municipal bylaw as an "enactment," it appears that this section authorizes the Lieutenant Governor in Council or a minister acting by regulation to retroactively modify the terms of a municipal bylaw.

In 2024, Alberta similarly amended the *Municipal Government Act* to insert a new power enabling the Lieutenant Governor in Council, at their own discretion, to repeal or amend any municipal bylaw (s. 603.01), compel specific municipal actions to protect public health or safety (s. 615.11), and even remove a councillor from office (s. 179.1).[28]

Nova Scotia's passage of *Bill 24* in 2025 similarly formalizes provincial authority to challenge or overturn municipal decisions. Amongst other measures, this legislation allows the provincial public works minister to directly dictate municipal decisions with respect to transportation infrastructure.[29] In the summer of 2025, the Nova Scotia premier proposed using this legislation to overturn Halifax council decisions regarding bike lanes in the city, leading council to reverse its decision (Patil 2025). This situation mirrors a similar conflict in Ontario, where, enabled by *Bill 212, Reducing Gridlock, Saving You Time Act, 2024,* the Province sought to remove existing bike lanes within Toronto, despite opposition from the city council, and require provincial approval for new ones.[30] At the time of writing, this legislation was successfully challenged in Ontario court by a third party as a violation of section 7 of the *Charter of Rights and Freedoms*,[31] which guarantees the right to life, liberty, and security of the person.[32] The Province has indicated an intent to appeal the decision.

27 We note that in 2022, the Supreme Court of Canada issued a controversial ruling that firmly establishes a new legal concept; that of "constructive takings." Under this doctrine, municipal zoning that sufficiently impedes the enjoyment of private property without compensation may, within prescribed limitations, be challenged as de facto expropriation. See Harris (2023).

28 *Municipal Affairs Statutes Amendment Act*, 2024 SA 2024, c 11. https://canlii.ca/t/5696s

29 *Temporary Access to Land Act and Joint Regional Transportation Agency Act*, SNS 2025, c 10. https://canlii.ca/t/56gjh

30 *Reducing Gridlock, Saving You Time Act*, 2024 SO 2024, c 25. https://canlii.ca/t/56ddr

31 Charter of Rights and Freedoms. *The Constitution Act*, 1982, Schedule B to the *Canada Act* 1982 (UK), 1982, c 11, pt 1. https://canlii.ca/t/ldsx

32 *Cycle Toronto v Ontario (Attorney General)*, 2025 O.J. No. 3366. This decision has been criticized as overreach, as section 7 of the Charter has been found by the courts to apply in relation to the administration of justice, not establish positive rights; in the case, a positive right to a bicycle lane (Shaw and Schechner 2025).

3.5 Conclusions

This review suggests that the scope of delegated authority and the autonomy with which it can be exercised have expanded considerably over the past 40 years. Despite significant variation across the country, Canadian municipalities now have broad general and specific powers to accomplish public purposes without provincial oversight. All provinces and territories now establish a general welfare power, all specify express powers, and all establish spheres of jurisdiction. Most have granted some or all municipalities natural person power, albeit sometimes with limitations.

Within limits, lower courts have followed the Supreme Court of Canada's lead in generously interpreting the scope of municipal authority. However, the outer limit of municipalities' legal authority, especially that stemming from the general welfare power and the grant of authority, remains ill-defined. As with all legal concepts in a common law system, the "real-world" scope of municipal authority is defined only through judicial interpretation, and jurisprudence focusing on these elements remains modest.

These are important and potentially far-reaching changes. Yet, as noted, provincial (and territorial) supremacy remains an inescapable constitutional fact, affirmed by the courts. Delegated powers may be limited, retracted, or overridden, and indeed several provinces have in recent years used their authority to do so. The tension between autonomy and intervention – both at the discretion of provincial and territorial governments – continues. Whether future observers will interpret recent interventions as a slowing or reversal of the long-term trend toward the broadening of municipal authority and discretion will become known only in the fullness of time.

4. Institutions

Conflicts pitting individual communities' desire for self-determination against provinces' desire to increase the efficiency and equity of municipal service delivery and the fiscal viability and administrative capacity of the local government system have occurred since Confederation. These conflicts often involve how – and who decides how – municipal institutions should be organized. On the one hand, local autonomy advocates argue that local control promotes democratic accountability and innovation; on the other, provincial governments have a legitimate interest in local affairs insofar as province-wide standards are desirable and municipal actions may generate negative externalities.

This section is concerned with municipalities' discretion regarding

- municipal restructuring through amalgamation or annexation;
- the organization of their representative institutions, including the selection and prerogatives of the head of council; and
- the organization of their administrative structures, including those by which services are delivered.

With greater powers and discretion comes greater risk. We also consider the "ethics regime" (Levine 2009) governing municipal elected officials, as well as oversight systems: codes of conduct of public officials and their oversight, and the existence and role of municipal ombudsman and auditor general functions. Lastly, we consider legal protections for municipal politicians.

4.1 Municipal restructuring

Unilateral provincial changes to municipal boundaries, including imposed annexations and amalgamations, have been notable battlegrounds in intergovernmental relations. Six provinces have imposed at least one round of comprehensive municipal amalgamations since the 1960s: Manitoba,

New Brunswick, Nova Scotia, Ontario, Québec, and Prince Edward Island (Dollery, Garcea, and LeSage 2008, 158–160; Sancton 2000). Manitoba consolidated 107 of its rural communities into 47 municipalities in the early 2010s (Ashton, Kelly, and Bollman 2015). In 2023, New Brunswick comprehensively redesigned its municipal system, reducing the number of municipalities from 104 to 77 and bringing 22 percent of the provincial population that had previously resided in unincorporated areas under the jurisdiction of municipal government (Taylor and Taylor 2024). In legal terms, these large-scale restructuring exercises have been imposed by provincial governments through legislation, as opposed to using procedures in the existing general legislation.

While these extraordinary actions have received considerable attention, most provinces' and territories' general municipal laws do in fact contain procedures for the initiation and approval of amalgamations and annexations by municipal councils, the minister, or the public.[33] Table 4.1 presents an overview of statutory provisions regarding the initiation of and consent for municipal restructuring.

Table 4.1. Boundary Change Procedures

Can initiate amalgamation or annexation				
Prov./ Terr.	**Public**	**Council**	**Minister**	**Public approval**
BC			Annexation: *Local Government Act*, s. 12	*Local Government Act*, s. 12(2)(c); *Community Charter*, s. 279
AB		*Municipal Government Act*, ss. 102, 116	*Municipal Government Act*, ss. 99.1, 107, 110, 116	
SK	*Municipalities Act*, s. 54(1)	*Municipalities Act*, s. 53(1) *Cities Act*, s. 43(1)	*Municipalities Act*, s. 49(1)	*Cities Act,* s. 47(1) (Minister may order vote)
MB		*Municipal Act*, s. 34(1) (apply to Municipal Board)	*Municipal Act*, ss. 46(1), 47	*Municipal Act*, ss. 42(2), 48 (Municipal Board may require vote)
ON	*Municipal Act*, s. 181(c)	*Municipal Act*, s. 173(1), 181(a)	*Municipal Act*, s. 181(b)	
QC		*Act Respecting Municipal Territorial Organization*, ss. 85, 128		*Act Respecting Municipal Territorial Organization*, ss. 106, 142, 153 (Minister may order vote)
NB			*Local Governance Act*, s. 21	
NS	*Municipal Government Act,* s. 358	*Municipal Government Act,* s. 358	*Municipal Government Act,* s. 358	
PE		*Municipal Government Act,* s. 15(2)	*Municipal Government Act,* s. 15(2)	
NL			*Towns and Local Service Districts Act*, s. 14	
YT	*Municipal Act*, s. 17(1)	*Municipal Act*, s. 17(1)	*Municipal Act*, s. 17(1)	
NT		*Cities, Towns, and Villages Act*, s. 11(1)	*Cities, Towns, and Villages Act*, s. 11(1)	
NU		*Cities, Towns, and Villages Act*, s. 7	*Cities, Towns, and Villages Act*, s. 7	

33 In Québec, municipal restructuring procedures for most municipalities are set out in a dedicated statute, the *Act Respecting Municipal Territorial Organization*, CQLR c O-9, https://canlii.ca/t/56kl9, rather than in the *Municipal Code* or the *Cities and Towns Act*.

4.1.1 Initiation

In all provinces and territories except British Columbia, New Brunswick, and Newfoundland and Labrador, statutes set out a procedure whereby municipal councils can initiate annexations and amalgamations themselves, typically on application to the minister or to a provincial board or tribunal.[34] General legislation in Québec does not provide a procedure for the minister to initiate annexations or amalgamations, although ministerial approval is required. In Québec and Ontario, restructuring has typically occurred through ad hoc special legislation.

In addition to the procedures summarized in Table 4.1, Part XVII of Nova Scotia's *Municipal Government Act* includes a procedure for the formation of new, single-tier regional municipalities. On request from all councils in a single county, the Nova Scotia Regulatory and Appeals Board will undertake a study of the proposal's advisability. If the study finds that consolidation is in the public interest, and a majority of the county electors approves in a plebiscite, the Lieutenant Governor in Council may proceed to dissolve the county and its municipalities and replace them with a new, single-tier regional government.

Only in Saskatchewan, Ontario, Nova Scotia, and the Yukon can municipal restructuring be initiated by a petition from residents.

4.1.2 Approval

In almost all provinces and territories, amalgamations and annexations must be approved by the responsible minister. Unlike many American states, few provinces require an affirmative vote of residents in affected areas. British Columbia is a partial exception; it requires that residents approve annexations (*Local Government Act*, s. 12(2)(c)) and amalgamations (*Community Charter*, s. 279) before they go into effect. Québec allows the minister to order a consultative vote on amalgamation, although there is no obligation to observe its results (*An Act Respecting Municipal Territorial Organization*, s. 95); however, a vote is required for annexation (ss. 133–134). The same is true in Saskatchewan and Manitoba.

In some provinces and territories, municipal boards or tribunals are involved. Manitoba's *Municipal Act* requires that the Manitoba Municipal Board advise the minister on amalgamations or annexations, except for minor annexations about which there is no dispute (ss. 34(2), 48). In Nova Scotia, the provincially appointed Regulatory and Appeals Board (*Municipal Government Act*, s. 357) may approve annexations or amalgamations. If a municipality initiates a restructuring in Saskatchewan or Prince Edward Island, the applicable provincial statutes mandate a mediation process if another affected municipality does not consent to amalgamation or being annexed. If no agreement is reached in Saskatchewan, the Saskatchewan Municipal Board rules (*Cities Act*, s. 43.1; *Municipalities Act*, s. 60). In Prince Edward Island, failed mediation leads to a public hearing before the Island Regulatory and Appeals Commission (*Municipal Government Act,* s. 17).

4.2 Reorganizing representative institutions

The question of control over the structure of the municipality's representations was thrown into sharp relief by the Ontario government's unilateral reorganizations of Toronto's ward system in 2000

34 The restructuring process set forth in Ontario's *Municipal Act* is not available to the Cities of Toronto, Hamilton, Ottawa, and Greater Sudbury; nor to the Counties of Haldimand and Norfolk; nor to regional municipalities and their lower-tier municipalities, except for minor restructuring proposals (see s. 171(2)).

and 2018. In the United States, home rule (see Box 4.1) and greater reliance on special legislation to incorporate municipalities ensure more variation in representative forms among municipalities. Distinctions between council-manager, mayor-council, and commission government systems are well known and accepted there, as well as considerable variation in the independent scope of mayoral authority, the role of parties, and the territorial basis of representation. Canada's use of general legislation to constitute most municipalities and to limit local control over institutional structures has had a homogenizing effect.

Box 4.1: Home Rule: An American Doctrine

Home rule, an American legal concept, refers to the entrenchment in state laws or constitutions of provisions that either prohibit state special legislation regarding municipal affairs, or delegate to municipalities the authority to amend their own charters respecting the structure of their representative and administrative institutions, revenue raising, service provision, and labour relations (Local Law Center 2015).

Late 19th century good government reformers advocated home rule to decongest state legislative business, which was overwhelmed by local special legislation, and to eliminate incentives to partisan patronage, whereby state legislative leaders would manipulate local offices and contracts to reward their friends (Taylor 2019, 54–57). Home rule is distinct from, but related to, the greater reliance on special laws rather than general legislation to constitute local governments in many American states compared with the process in Canadian provinces.

Canadian observers tend to overestimate the scope of American home rule. Even where it is in effect, states retain their original constitutional authority to intervene unilaterally in municipal affairs. Home rule has proven easy for state legislatures to circumvent, as evidenced by a growing American literature on states' pre-emption of local policymaking in a wide range of policy areas (DuPuis et al. 2017; Riverstone-Newell 2017). While the constitutional entrenchment of an inalienable sphere of municipal jurisdiction is theoretically possible in Canada through amendments to the *Constitution Act, 1867,* it is unlikely to occur, given the political complexity of "opening up" the Constitution.[35]

4.2.1 Head of council: Selection, authority, and duties

In most provinces, the *head of council* – variously called the mayor, reeve, warden, or chair – is the individual who presides over the activities of a municipality's council. Most provinces provide for the

35 Unlike American states, Canadian provinces do not have self-standing, unilaterally amendable written constitutions distinct from ordinary legislation. Rather, provinces are constituted in a variety of ways – not only by the various *Constitution Acts*, but also by other documents customarily considered constitutional, such as Newfoundland and Labrador's *Terms of Union*. Indeed, the content and scope of Canadian provincial constitutions remains unsettled (Price 2017). While this arrangement is untested, we believe that the provincial legislature and the federal Parliament would have to approve the constitutional entrenchment of an autonomous sphere of jurisdiction for municipalities within a single province (s. 43). This mechanism was used to abolish religion-based education rights in Québec and Newfoundland and Labrador, in the former case replacing them with language-based schools. To add a municipal schedule to the federal-provincial division of powers in the *Constitution Act,* 1982, would require the approval of seven provinces representing 50 percent of the Canadian population (s. 38). Good (2019) points to alternative ways of thinking about the constitutionality of local governments. Municipal laws can be considered organic laws (that is, subject to a higher standard of amendment than regular legislation due to their foundational nature) or enacted using "manner and form" provisions that explicitly recognize their constitutionality in the provincial context. No province has used such approaches and their effect is untested in the courts.

head of council to be selected by an at-large vote of the municipality's electors. Newfoundland and Labrador is the major exception. There, the default procedure follows the historical British model of selection by a majority of council following an election, however municipalities may choose to directly elect the head of council by an affirmative vote of two-thirds of the council (*Towns and Local Service Districts Act*, s. 27). In Alberta, where the default is direct election at large, the reverse is possible: prior to a municipal election, a council may pass a bylaw authorizing the selection of the head of council from among the councillors by vote of the council. Similarly, Nova Scotia counties and district municipalities and Yukon towns may, if provided for by bylaw, choose to select the head of council from among the council membership. Table 4.2 lists the various ways in which municipal heads of council are selected.

Table 4.2. How Municipal Heads of Council are Selected

Prov./ Terr.	Default selection method	Exceptions
BC	Direct election at large	
AB	Direct election at large	Council may pass bylaw to select head of council by vote of council
SK	Direct election at large	
MB	Direct election at large	
ON	Direct election at large	County wardens and the chairs of several regional municipalities are selected by vote of council
QC	Direct election at large	Some regional county municipality wardens are selected by vote of council
NB	Direct election at large	
NS	Direct election at large	County and district municipality wardens may be selected from among the councillors
PE	Direct election at large	
NL	Selection by vote of council	Council may pass bylaw with two-thirds majority to enable municipality-wide direct election
YT	Direct election at large	Council of a town (but not a city) may, by bylaw, provide for the election of one additional councillor instead of a mayor, and allow for the designation of mayor by a majority of councillors
NT	Direct election at large	
NU	Direct election at large	

In Ontario, heads of council of single- and lower-tier general-purpose local governments – cities, towns, townships, and villages – are directly elected at large. There is variation, however, among upper-tier units. With the exception of Wellington County, all county councils select their heads of council from among their own number. This is also true of the chairs in most regional municipal councils; however, some are directly elected. These variations are codified in special legislation.

In Québec, the *Act Respecting Municipal Territorial Organization* sets out the procedures for selection of the warden of a regional county municipality (RCM). Ordinarily under the Act, "the warden shall be elected by the members of the council, from among those members who are mayors" of the constituent local municipalities (s. 210.26). Alternatively, RCMs outside the Montréal Metropolitan Community may choose to elect their warden at large (s. 210.29.1).

Heads of council in Canada are considered members of the council and participate in council votes. In most jurisdictions, they have few statutory prerogatives greater than those exercised by other councillors. Section 225 of the Ontario *Municipal Act* codifies the "standard package" of authority and duties of heads of council found in most general municipal laws:

> to act as chief executive officer of the municipality; to preside over council meetings so that its business can be carried out efficiently and effectively; to provide leadership to the council; to provide information and recommendations to the council with respect to the role of council; to represent the municipality at official functions; and to carry out the duties of the head of council under this or any other Act (s. 225; see also Rust-D'Eye, Bar-Moshe, and James 2015, 21–22).

British Columbia, Québec, and Prince Edward Island grant significant additional powers to the head of council in their respective municipalities. Drawing on Graham (2018) and a review of general municipal legislation, we have summarized the duties and authority of mayors in Table 4.3. These differences are most pronounced in British Columbia, where mayors can hire and suspend the chief administrative officer, appoint standing committees of council, and require reconsideration of council decisions (*Community Charter,* ss. 131, 141, 151). This authority is mirrored in the *Local Government Act* provisions pertaining to regional district chairs (ss. 217–218, 239–241). In the Yukon, the mayor may also suspend the CAO until the next meeting of council, which makes the final decision (*Municipal Act*, ss. 180(1)(d), 189). The mayor of Winnipeg appoints the powerful Executive Policy Committee and committee standing chairs (*City of Winnipeg Act*, s. 59(1)). After the adoption of the *City of Toronto Act* (2006), the municipal code was revised to enable the mayor to appoint an executive committee comprising standing committee chairs.

In 2022, Ontario introduced a controversial change to these norms and practices by introducing so-called "strong mayor" powers, first in Toronto and Ottawa, and then progressively to other municipalities (see Taylor et al. 2023). As of 2025, regulations enacted under Part VI.1 of both the *Municipal Act* and *City of Toronto Act* designate 216 municipalities (out of the province's 444) where the head of council is afforded extra powers. These additional powers permit the mayor to

- hire and fire prescribed municipal employees;
- appoint chairs and vice-chairs of local boards;
- establish, dissolve, and appoint the chairs and vice-chairs of council committees;
- place items on the council agenda;
- develop and propose the municipal budget;
- veto council decisions (subject to override by a two-thirds vote of council) if the adopted bylaw is deemed by the mayor to interfere with a provincial priority; and
- pass bylaws with only one-third support of council if the bylaw is deemed by the mayor to advance a provincial priority.

Table 4.3. Authority and Duties of the Head of Council

Power	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU
CEO	•	•	•	•	•	•	•	•	•	•	•		• ***
Presides over council	•	•	•	•	•	•	•	•	•	•	•	•	•
Leads council	•	•	•	•	•	•	•	•	•	•	•	•	•
Represents municipality	•	•	•	•	•	•	•	•	•	•	•	•	•
May fire employees	• *				• **						• *		
Appoints standing committees	•				• **								
May require reconsideration of council decision	•				• **								
Staff reports to head of council (not council as a whole)						•							
Casts vote to break tie									•				
Appoints deputy mayor									•				

* Mayor may "suspend" CAO until the next council meeting, which makes the final decision. ** In municipalities with "strong mayor" powers as designated under O. Reg. 529/22 and O. Reg. 530/22. *** Mayor is referred to as "senior executive officer" (*Cities, Towns, and Villages Act,* s.39(2)).

Importantly, the exercise of several of these powers is subject to the mayor determining that the council decision at hand is related to a "provincial priority" defined in regulation under the *Municipal Act* or *City of Toronto Act*. As adopted by regulation in 2022, the Province has articulated two priorities: building housing and constructing and maintaining infrastructure to support housing. The existence of "provincial priorities" illustrates a tension between provincial goals and local discretion. On the one hand, considerable authority heretofore exercised by council collectively has been centralized in heads of council; on the other hand, the mayor's biggest "sticks" can only be used if they are consistent with provincial, rather than local, priorities.

Similar "strong mayor" powers may be adopted elsewhere. At the time of writing, it has been reported that the mayor of Halifax has asked the Nova Scotia government for similar powers and that the provincial government offered such powers to the previous mayor, who turned them down (Gorman 2025); however the premier has decided to maintain the status quo (Halef 2025).

4.2.2 Establishing and altering wards and ward boundaries

Canadian municipal councils are generally organized in one of two ways.[36] In most provinces, the norm is a ward-based system in which councillors represent territorially defined districts. In British

36 The once-common *board of control* – an executive body separate from the council with special financial and administrative authority, usually separately elected at large – no longer exists in any Canadian municipality (Tindal et al. 2017, 248–249).

Columbia, the norm is election at large, whereby all electors vote for all candidates and the council is populated by those who receive the most votes. As Table 4.4 shows, the level of control that municipalities have in determining the form of representation varies among provinces.

Table 4.4. Municipality's Power to Organize Council Without Provincial /Territorial Approval

Prov./ Terr.	Establish wards	Set ward boundaries
BC	No (only with approval of Lieutenant Governor in Council (LGIC), unless in original letters patent; called "neighbourhood constituencies")	No (only with approval of LGIC)
AB	Yes	Yes
SK	No (not in rural municipalities; in non-rural municipalities, determined by municipal wards commission, following public hearings)	No (not in rural municipalities; in non-rural municipalities, determined by municipal wards commission, following public hearings)
MB	Yes (25 voters may require Municipal Board to review bylaw, with hearing; the Board may reject bylaw)	Yes (25 voters may require Municipal Board to review bylaw, with hearing; the Board may reject bylaw)
ON	Yes (may be sought by petition of 1% of electors; bylaw subject to appeal to Ontario Land Tribunal; the Tribunal may reject bylaw)	Yes (may be sought by petition of 1% of electors; bylaw subject to appeal to Ontario Land Tribunal; the Tribunal may reject bylaw)
QC	Required for local municipalities greater than 20,000 population, can be adopted by two-thirds vote of council for smaller municipalities.	Yes
NB	Yes (with public notice)	Yes (with public notice)
NS	No (requires consent of Nova Scotia Utility and Review Board, after hearing)	No (requires consent of Nova Scotia Utility and Review Board, after hearing)
PE	Yes.	Yes
NL	*Towns:* by 2/3 vote of councillors; with limitation on number of councillors *Regions:* by LGIC	*Towns:* by 2/3 vote of councillors; with limitation on number of councillors *Regions*: by LGIC
YT	No (requires approval from Minister)	No (requires approval from Minister)
NT	No (requires approval from Minister)	No (requires approval from Minister)
NU	No (requires approval from Minister)	No (requires approval from Minister)

Only three provinces – Alberta, New Brunswick, and Prince Edward Island – delegate broad autonomy to establish ward systems and determine ward boundaries. Alberta's *Municipal Government Act* places no constraints on council's ability to create, modify, or eliminate wards (s. 148(2)). In New Brunswick, the *Local Governance Act* requires that a council publish or broadcast notice of its intention to pass a ward division bylaw within 10 days before the bylaw is first considered by council (s. 45(1)). Prince Edward Island's *Municipal Government Act* requires only that the number of electors not vary by greater than 10 percent among all the wards (s. 39(4)).[37] In Prince Edward Island, councils are required to establish a local Electoral Boundaries Commission to review wards following every third election, but they are not bound to accept its recommendations.

In the other provinces, the power to establish or modify ward systems is subject to approval by the minister, an independent local commission, or a provincial board. Territorial legislation does not provide for ward systems.

37 This may set an important precedent as there is no constitutional or legal requirement for equal representation by population at the local level. Supreme Court decisions regarding justifiable deviations from equal representation apply only at the federal and provincial levels (Sancton 1992).

British Columbia's *Local Government Act* prescribes a process for creating a municipal ward system in incorporated municipalities. Unless the municipality was originally divided into wards (referred to as "neighbourhood constituencies") in the letters patent incorporating it, its council may establish wards only with the approval of the Lieutenant Governor in Council (s.53(4)). Only one municipality, the District of Lake Country, has established wards.

Saskatchewan has a unique approach to third-party oversight of a municipality's authority to divide into wards for council elections. Under both the *Municipal Act* (s. 84) and the *Cities Act* (s. 58), bylaws that create or alter municipal wards must be approved by an independent municipal wards commission appointed by the municipal council.[38] Only the municipality's clerk, and no council members, may sit on this local commission. The commission must hold public hearings before reaching its decision.

Under Manitoba's *Municipal Act*, municipalities have the authority to establish and amend ward boundaries, subject to the requirement that they attempt to ensure an approximately equal number of electors in each ward (s. 88). Proposed establishment or modification of wards is also subject to review by the Municipal Board; upon receipt of a written request from at least 25 voters in a municipality, the Municipal Board may hold a hearing on the proposed bylaw and may require that the law be amended or returned to council for further consideration (s. 89).

Ontario's *Municipal Act* functions in a similar way: municipalities may divide or redivide a municipality into wards, but any such decision is subject to possible appeal to the Ontario Land Tribunal, which may affirm or reject the bylaw (s. 222). Electors may also initiate a change by submitting a petition to council endorsed by the lesser of 500 electors or 1 percent of electors in the municipality, and may appeal to the Land Tribunal in cases where council fails to act on the petition within 90 days (s. 223).

In Québec, municipal authority to establish municipal "electoral districts" is laid out in the *Act Respecting Elections and Referendums in Municipalities* rather than in general municipal legislation.[39] This legislation establishes the circumstances under which electoral districts are to be established (ss. 4–7) and the procedures by which those districts should be determined (ss. 9–15). Division into districts is required for local municipalities with more than 20,000 population, and they can be adopted by a two-thirds vote of council in smaller municipalities. These requirements do not apply to regional county municipalities. This legislation also establishes a process through which electors may object and trigger a public hearing on proposed boundaries (ss. 16–20), and by which the Commission de la représentation électorale may reject or amend a proposed bylaw (s. 31). Councils can amend boundaries, but a two-thirds vote of council is required to abolish them in small local municipalities.

In Nova Scotia, any municipal bylaw to divide or redivide a municipality into wards must be approved by the Nova Scotia Regulatory and Appeals Board after a public hearing on the issue (s. 368). In each case, the provincial agency has authority to reject, amend, or approve a municipality's wards bylaw.

In Newfoundland and Labrador, the *Towns and Local Service Districts Act* prescribes that wards may be established or altered in towns, either by order of the minister or through a bylaw passed by at least two-thirds of the municipal councillors in office (s. 25).

4.2.3 Establishing council committees and community councils

In all provinces and territories, municipalities have the power to create committees of council without conditions or constraints. At the same time, only two provinces – Ontario and Nova Scotia – provide for community councils or area committees to assist municipal councils in addressing

38 These provisions do not apply to rural municipalities.

39 *Act Respecting Elections and Referendums in Municipalities*, CQLR c E-22. https://canlii.ca/t/52t4c

issues of importance to sub-areas of the municipality.[40] Some observers consider this a shortcoming in provincial legislation, arguing that community councils serve an important democratic function, especially in large cities (Flynn 2017, 96). Spicer (2016a, 129) has found that few Ontario municipalities have chosen to exercise this authority.

4.3 Determining modes of service delivery

In most provinces, general municipal legislation implicitly or explicitly gives municipalities wide latitude in how they provide services under their assigned jurisdiction, including

- in-house delivery by municipal departments or divisions;
- contracting out, through agreements with private contractors;
- joint-power arrangements with other municipalities; and
- through special-purpose bodies such as public utility corporations.

British Columbia entrenches flexibility in section 8(2) of the *Community Charter*, which states that "A municipality may provide any service that the council considers necessary or desirable and may do this directly or through another public authority or another person or organization."

In some provinces, legislation specifically prescribes that certain services be provided through special-purpose bodies or corporations with varying degrees of municipal policy and budgetary oversight. Ontario, for example, prescribes specific institutional structures for police services, electric utilities, library services, and watershed management.

4.3.1 Power to create corporations

An independent authority to create public corporations without provincial approval is a potentially useful extension of a municipality's ability to reorganize its internal structures. For example, municipalities may create corporations for tourism promotion, economic development, land management, or other purposes.

Provincial statutes vary in their provisions authorizing municipalities to establish corporations. As Table 4.5 indicates, most do, with Prince Edward Island being the most permissive. In the other provinces, a municipality's power to incorporate a corporation is constrained to some extent, usually by provincial oversight or approval. In all provinces except Newfoundland and Labrador, a municipality can establish corporations to undertake only such activities and exercise such powers as the municipality is authorized to undertake itself. In other words, the act of incorporating a separate legal entity cannot extend the authorized jurisdiction of the municipality (Lidstone 2004, 28).

It can be argued that, where it exists, the natural person power renders a separate authorization to establish corporations redundant (Lidstone 2004, 28). This opens up an as-yet untested legal question: are limited authorizations superseded by the more expansive natural person power?

40 See Ontario *Municipal Act*, s. 23.6; *City of Toronto Act*, s. 24.1; *Halifax Regional Municipality Charter Act*, ss. 24–29.

Table 4.5. Power to Create Corporations

Prov./ Terr.	Enabled	Restrictions
BC	•	Approval of Inspector of Municipalities (*Community Charter* s. 185(1))
AB	•	After a public hearing; may be restricted by Minister's Regulations (*Municipal Government Act,* s. 75.1)
SK	•	Annual financial statements of "controlled corporations" must be audited (*Cities Act* s. 158)
MB	•	Approval of Minister (Implicit under *Municipal Act, s.*1(1), definition of "municipal participation corporation")
ON	•	May be restricted by Minister's Regulations (*Municipal Act* s. 203(1))
QC	•	For specific purposes (*Municipal Powers Act,* ss. 17.1, 111)
NB	•	For limited described purposes; must be non-profit (*Local Government Act* ss. 8(1–2))
NS	•	No
PE	•	None (*Municipal Government Act* s. 181.1)
NL	•	For limited purposes; must be non-profit (*Towns & Local Services District Act*, s. 179(1))
YT	•	Can only be established to perform functions that municipality itself may do (*Municipal Act*, s. 4(3))
NT	•	"may, by bylaw, establish a board or commission to administer or provide a service, public utility or facility as an agent of the municipal corporation" (*Cities, Towns, and Villages Act,* s. 60(1)) which may be "a corporate entity" (*Cities, Towns, and Villages Act,* s. 60(2))
NU	•	"may, by bylaw, establish a board or commission to administer all or part of one or more programs and services within the jurisdiction of the municipal corporation" (*Cities, Towns, and Villages Act (Nu),* s. 31.1(1)) and determine "whether the board or commission is to be established as a separate body corporate under the Business Corporations Act" (*Cities, Towns, and Villages Act (Nu),* 31.1(2)(f))

Nova Scotia law does not permit municipalities to establish separate corporations (nor do they grant municipalities natural person powers). However, Nova Scotia municipalities may enter into agreements with other municipalities, villages,[41] service commissions, the provincial and federal governments or their agencies, and band councils to provide or administer municipal or village services, and may further delegate this responsibility to a separate body corporate (*Municipal Government Act*, s. 60). The *Municipal Housing Corporations Act* (RSNS, c. 304, s. 1) provides for municipalities to individually or jointly establish a housing corporation with permission of the minister.

4.4 Ethics, accountability, and transparency

Conflict of interest laws prohibiting municipal councillors from taking part in decisions where they have a private interest exist in all jurisdictions. However, concerns about the accountability, ethical behaviour, and transparency of local institutions and activities have grown as municipalities have taken on more tasks and gained greater autonomy (Levine 2009). All provinces, but none of the territories, now provide oversight mechanisms for municipal elected officials of one kind or another. As Table 4.6 shows, however, they differ in whether these are locally or provincially administered, and how much discretion local governments have over rule-making. As noted below, in provinces where integrity commissioners are not required, several municipalities have voluntarily retained them.

41 In Nova Scotia, "villages" are unincorporated communities that may receive services from a larger county or municipality in which they are situated, or through an unelected commission.

In this section, we examine several common institutional devices: the *code of conduct for councillors*, which provides a standard for councillor behaviour intended to prevent ethical conflicts; the *integrity commissioner*, who independently investigates possible ethical breaches at the request of the council; the *ombudsperson*, who independently investigates municipal actions at the request of members of the public; and the *auditor general*, who independently conducts value-for-money audits of municipal activities.[42]

Table 4.6. Ethical Oversight and Councillors' Protection

Prov./ Terr.	Code of conduct for councillors	Integrity Commissioner	Ombudsperson	Local Auditor General	Protection for councillors
BC		Yes – optional	Provincial Ombudsman has jurisdiction	Yes – optional	Yes (if not grossly negligent)
AB	(Repealed in 2025)		Provincial Ombudsman has jurisdiction	No – provincial Minister may intervene	Yes
SK	Yes – mandatory		Provincial Ombudsman has jurisdiction		Yes
MB	Yes – mandatory		Provincial Ombudsman has jurisdiction	Provincial Auditor General has jurisdiction; Winnipeg appoints City Auditor	Yes
ON	Yes – mandatory, Bill 9 (2025) would standardize	Yes – mandatory	Optional (or Provincial Ombudsman)	Yes, for Toronto; optional for other municipalities	Yes
QC	Yes – mandatory		Optional (needs 2/3 vote of municipal council)	Yes, for municipalities over 100,000 population; optional for others	No (but municipality will provide defence against claims)
NB	Yes – mandatory		Provincial Ombudsman has jurisdiction		No (council may indemnify)
NS	Yes – mandatory, content standardized in regulation		Provincial Ombudsman has jurisdiction	Yes, for Halifax Regional Municipality	No (but notice required and limitation period reduced)
PE	Yes – mandatory	No – Provincial Minister may act	Provincial Ombudsman has jurisdiction		Yes (if not negligent)
NL	Yes – mandatory, model code				Yes
YT					Yes (if not grossly negligent)
NT					Yes (if not grossly negligent)
NU					Yes (if not grossly negligent)

42 Other institutions and offices exist in some jurisdictions, but due to limited space we do not discuss them here. These include lobbyist registrars and closed meeting investigators. We also do not discuss freedom of information rules and requirements, laws, and regulations that govern election campaigns and campaigning, ethics codes governing municipal employees, and whistleblower protections. The broader "ethical infrastructure" of local government deserves separate investigation.

4.4.1 Code of conduct for councillors

Codes of conduct establish standards for respectful conduct and ethical behaviour and permit investigation of transgressions of these standards. In the early 2000s, the United Kingdom Parliament required all local authorities to draw up codes of conduct and stipulated that they mirror the model code of conduct developed by Parliament (Dollery, Garcea, and LeSage 2008, 83). Most Canadian provinces and territories have been less directive, although mandating the local adoption of codes of conduct with prescribed content is increasingly common.

The general statutes of Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (as of 2024)[43] require that municipalities adopt a code of conduct for councillors. In each case, accompanying regulations contain guidelines for the content of the code. For example, section 1 of Ontario Regulation 55/18 lists mandatory code of conduct subjects:

1. Gifts, benefits, and hospitality;
2. Respectful conduct, including conduct toward officers and employees of the municipality or the local board;
3. Confidential information;
4. Use of property of the municipality or of the local board.[44]

Manitoba's regulation established under section 84.1(1) of the *Municipal Act* is similar.[45]

In British Columbia, neither the *Community Charter* nor the *Vancouver Charter* require municipalities to establish a code of conduct for councillors, but do require that municipalities "consider" establishing one and provide an explanation if they choose not to (Raso and Fox 2024).

The most stringent provinces are Québec and Nova Scotia. Québec's *Municipal Ethics and Good Conduct Act* mandates municipal adoption of binding codes of ethics and conduct and prescribes the rules to be covered by the codes.[46] Each municipality's code must be updated every four years, after a municipal election. Municipalities must publish a notice of the draft bylaw for the proposed code of ethics and conduct. The same statute also requires municipalities to adopt a separate code of conduct for employees. Alleged breaches of municipal codes may be investigated by a provincial body, the Commission municipale du Québec. In 2024, Nova Scotia prescribed in regulation standardized codes of conduct for councillors serving in villages, municipalities, and Halifax.[47] If passed, Ontario's Bill 9, the *Municipal Accountability Act*, 2025, would allow for the creation of a standardized code of conduct for all municipalities across the province (Ontario 2025).

Regardless of provincial mandates, all municipalities likely have the authority to adopt binding councillors' codes of conduct under their general welfare or natural person powers. In doing so, a municipality may establish rules and procedures that complement – and in some cases exceed – those in provincial law (Cunningham 2011, 160–162).

43 In 2024, Newfoundland and Labrador passed a *Municipal Conduct Act* requiring municipalities to adopt a code of conduct and published a model code of conduct to which municipalities may refer. See *Municipal Conduct Act*, SNL 2021 c M-20.11, https://canlii.ca/t/55m71; and Code of Conduct Template – Councillors, May 2024. https://www.gov.nl.ca/mpa/files/Code-of-Conduct-Policy-for-Councillors-May-2024.pdf

44 *Codes of Conduct – Prescribed Subject Matters*, O Reg 55/18. https://canlii.ca/t/53jw0

45 *Council Members' Codes of Conduct Regulation*, Man Reg 98/2020. https://canlii.ca/t/54rnf

46 *Municipal Ethics and Good Conduct Act*, CQLR c E-15.1.0.1. https://canlii.ca/t/56g2z

47 Code of Conduct for Elected Officials Regulations, NS Reg 218/2024, https://canlii.ca/t/56h2c; Code of Conduct for Municipal Elected Officials Regulations, NS Reg 219/2024, https://canlii.ca/t/56h2d; Code of Conduct for Village Elected Officials Regulations, NS Reg 220/2024. https://canlii.ca/t/56h2g

The one exception is Alberta. Since 2015, Alberta's *Municipal Government Act* required municipalities to establish codes of conduct for municipal office holders. However, in 2025, the provincial government enacted Bill 50, which included provisions that nullify all municipal codes of conduct in the province, ostensibly to prevent the "weaponization" of codes when relationships among councillors break down (Bellefontaine 2025).[48] The minister has proposed replacing codes of conduct with an ethics or integrity commissioner.

4.4.2 Integrity commissioner

Recognizing that having councillors investigate and police themselves regarding code of conduct violations and conflicts of interest is in itself a conflict of interest, some jurisdictions have created independent investigation and recommendation functions.

To date, Ontario is the only province that mandates the appointment of an external integrity commissioner. The City of Toronto was the first Canadian municipality to do so in 2004 (Cunningham 2011, 164) in response to scandals involving lapses of judgment and ethical conflicts among councillors and senior officials that led to judicial inquiries in Toronto and Mississauga (see Bellamy 2005). Sections 223.3–5 of the Ontario *Municipal Act* require that all municipalities retain an integrity commissioner, exclusively or jointly with other municipalities. The *Municipal Act* prescribes that the commissioner is responsible for applying a municipality's rules of ethical behaviour and code of conduct, enforcing certain provisions of the *Municipal Conflict of Interest Act*, and providing education and advice regarding these rules, codes, and statutes. The *City of Toronto Act* similarly requires the appointment of an Integrity Commissioner (ss. 158–164). If passed, Ontario's Bill 9, the *Municipal Accountability Act*, 2025, would establish a test that integrity commissioners must meet to recommend removal of elected councillors, as well as a framework governing commissioners' investigations and complaints (Ontario 2025).

The councils of several British Columbia municipalities have appointed integrity commissioners, including Vancouver, Surrey, and Maple Ridge. Regina and Saskatoon in Saskatchewan, and Winnipeg in Manitoba, have also done so. In Prince Edward Island, Charlottetown's code provides for the appointment of an external investigator if complaints cannot be otherwise resolved. Retaining an external commissioner or appointing an investigator is not required in provincial legislation in these provinces. The provincial Ombudsperson of British Columbia has called for a formal, province-wide approach to municipal oversight (Ombudsperson B.C. 2025).

The Province of Alberta recently amended the *Municipal Government Act* (s. 179.1) to give itself the authority to dismiss elected councillors if it deems it "in the public interest" to do so.[49] This discretionary power goes far beyond the legal criteria and penalties found in conflict-of-interest rules and the provision for investigatory processes described above.

4.4.3 Ombudsperson

An "ombudsman" is an impartial, independent official who investigates complaints made by the public regarding the actions of governments and other organizations. Montréal established the first municipal ombudsman's office in Canada. The Province of Québec amended the *Cities and Towns Act* (div. XI.1) and the *Municipal Code* (Title XXVIII.1) in 2006 to enable municipalities to establish an ombudsman by

48 *Municipal Affairs Statutes Amendment Act*, 2025 SA 2025, c 13. https://canlii.ca/t/56hqb
49 *Municipal Affairs Statutes Amendment Act*, 2024, SA 2024, c 11. https://canlii.ca/t/5696s

a two-thirds majority vote. In Ontario, a municipality may appoint its own ombudsperson (*Municipal Act*, s. 223.13); the City of Toronto is required to establish one (*City of Toronto Act*, ss. 170–176).

Seven provinces – British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Prince Edward Island – empower a provincial ombudsperson to investigate residents' complaints regarding municipal actions or service delivery. Québec's provincial ombudsperson does not have jurisdiction to investigate or act on complaints against municipalities. Similarly, Newfoundland and Labrador's citizens' representative (which is akin to a provincial ombudsperson), is not empowered to deal with citizens' complaints against municipalities.

4.4.4 Auditor general

Several large municipalities across the country have established auditors general, analogous to those at the provincial and federal level, empowered to conduct investigations and issue reports on their own initiative on the municipality's compliance with financial and administrative rules, and spending with due regard for economy and efficiency.[50] In some cases this is mandated in legislation. The *City of Toronto Act* (ss. 177–182) establishes an auditor general "responsible for assisting city council in holding itself and city administrators accountable for the quality of stewardship over public funds and for achievement of value for money in city operations" (s. 178.1). Ontario's *Municipal Act* (s. 223.19) authorizes, but does not mandate, municipalities to appoint an auditor general. Greater Sudbury, Ottawa, Peel Region, and Windsor are known to have established auditors general under this authority.

British Columbia established a provincial Auditor General for Local Government in 2012,[51] but the office was decommissioned in 2021 after consistent opposition from municipalities (Shaw 2020). The City of Vancouver established its own auditor general in 2019. Other municipalities, including Calgary and Edmonton, have done the same, relying on their own general legal authorization to do so. The *City of Winnipeg Act* (ss. 102–107) provides for the appointment of a city auditor. As amended in 2008, the *Halifax Regional Municipality Charter* (ss. 49–54) mandates the appointment of an Auditor General. Québec's *Cities and Towns Act* (s. 107.1) requires every municipality with more than 100,000 residents to establish an auditor general.

4.5 Protection of councillors from liability

While seemingly a technical question, the potential for municipal councillors to be held liable for actions made in the course of their work may have far-reaching effects. Liability may discourage individuals from running for office or stifle necessary risk-taking by officeholders.

The general municipal laws of seven provinces and three territories offer some protection to councillors for claims arising from their actions (see Table 4.6). Ontario's *Municipal Act* is the most stringent, providing that:

> No proceeding for damages or otherwise shall be commenced against a member of council or an officer, employee or agent of a municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this Act or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority (s. 448(1)).

50 A permanent, appointed "auditor general" operating independently of the municipality and its council and empowered to conduct its own investigations is distinct from retaining external professional services to audit financial statements, although these functions are sometimes combined.

51 *Auditor General for Local Government Act*, SBC 2012, c 5. https://canlii.ca/t/52lcs

Section 284.14 of Ontario's *Municipal Act* and section 226.12 of the *City of Toronto Act* provide broad immunity to mayors: "A decision made, or a veto power or other power exercised, legally and in good faith under this part shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the decision or exercise of the veto power or other power."

Several important limitations are related to statutory protection provisions. While Ontario has the broadest "bar to action" protection in that it covers municipal councillors, employees, and agents, the councillor or employee must have been acting in good faith. Similarly, some provinces, such as British Columbia, do not afford protection for dishonesty, gross negligence, malicious or wilful misconduct, or defamation.

Some provinces also provide for municipalities to indemnify council members sued for actions or inaction in the good faith performance of their roles. This falls short of the "bar to action" protection because it applies only after a councillor has been sued and may require councillors to retain their own legal counsel pending indemnification. Québec goes somewhat further than indemnification in that a municipality shall provide a defence for councillors or employees sued for acting in their roles, unless acting with intentional or gross fault, or illegally.

Nova Scotia does not provide specific statutory protections for municipal councillors. Instead, it leaves it to the common law to determine whether councillors may be liable for actions or inactions taken in their roles as council members. However, the *Municipal Government Act* requires that actions against a councillor may be commenced only after one month's notice and within a one-year limitation period (s. 512).

4.6 Conclusions

Local control over the internal structure and territorial boundaries of municipal institutions is an important aspect of community autonomy and self-determination. Nevertheless, this value must be balanced against the province or territory's interest in ensuring effective local governance and equitable access to services, the application of consistent standards where appropriate, and the avoidance of negative externalities. Our review, and the experience of provincially imposed municipal restructuring and other unilateral provincial interventions across the country, suggests that Canadian municipal legislation elevates the latter set of priorities over the former in many respects. Despite variation from one jurisdiction to the next, most legislation provides for a role for provincial and territorial governments in initiating and approving boundary changes and prescribes permissible forms of representation and modes of service delivery.

Most provinces and territories also enable or prescribe an "ethical infrastructure" (Cunningham 2011) governing the conduct of local elected officials, sometimes giving the provincial agencies a direct role. This ranges from mandating the adoption by councils of codes of conduct to the voluntary or mandatory appointment of integrity commissioners or other bodies to investigate breaches of those codes. Other functions, such as an ombudsman to hear and investigate residents' complaints or an auditor general to report on government efficiency, have been mandated or enabled in provincial law, or adopted at local initiative. These "guardrails" may be increasingly important as municipal elected officials undertake a wider range of tasks, and with greater discretion.

Would greater local control over institutional forms, and therefore greater variation and customization, improve the quality of local governance? Local control over whether representation is on a ward basis or by election at large, how many members a council should have, or how the head of council is selected, may be benign. The argument may be made that it does not matter how, institutionally, a

service is organized as long as it is delivered. Yet some aspects of local governance may benefit from standardization – for example, the creation of uniform codes of conduct and rules for investigation of breaches seen in some provinces. Leaving the definition and investigation of ethical standards to those who must follow them is likely unwise.

5. Finance

The adequacy of municipal revenues to meet municipalities' operating and capital needs is the subject of ongoing debate (see Box 5.1 for the distinction between operating and capital budgets). We do not address the question of adequacy here.[52] Our focus in this section is on identifying variation among provinces and territories in the legal availability of revenue sources to municipalities. We also do not deal with the significant proportion of municipal spending (19 percent) funded by transfers from other levels of government as opposed to *own-source revenues* – funds municipalities raise themselves (Johal 2019). We note, however, that municipalities have broad discretion over what they can spend money on, although they are constrained by conditional grants and collective agreements. We are aware of one example of recent legislation that potentially broadens the scope of spending discretion. In 2019, with Bill 92, Nova Scotia removed section 65 of the *Municipal Government Act*, which contained an itemized list of what municipalities could spend money on.[53]

Box 5.1: Operating versus Capital Budgets

A distinction must be made between *operating* and *capital* expenditures and the types of revenues that fund them. Municipalities in all provinces and territories maintain and fund separate operating and capital budgets; the former for annual expenditures, the latter for the construction of public assets. All provinces and territories require municipalities to plan for balanced operating budgets (although some provinces permit deficits, with ministerial permission). As the servicing of debt for capital purposes is an operating expense, there is a practical limit on the size of capital expenditures. All provincial governments limit or regulate borrowing to preserve municipal solvency.

5.1 Revenues for operating purposes

5.1.1 Property taxes, fees, and fines

In all provinces and territories, the standard menu of municipal own-source revenues for operating purposes are taxes on real property (both residential and non-residential), user fees, licence and permit fees, and fines and penalties (See Table 5.1). Due to their relatively universal application, we will not go into detail on these revenue sources here.

All provinces and territories enable municipalities to levy municipality-wide taxes on different categories of real property. However, there is significant variation across provinces, and sometimes

52 For detailed discussions of municipal public finance and the merits and use of various taxes and fees, see Althaus and Tedds (2016), Bird, Slack, and Tassonyi (2012), Kitchen and Slack (2016), McMillan and Dahlby (2014), Slack (1996), Slack and Tassonyi (2017), and Vander Ploeg (2002).

53 *Municipal Government Act*, SNS 1998, c 18, https://canlii.ca/t/56gx0; and *Halifax Regional Municipality Charter*, SNS 2019, c 19. https://canlii.ca/t/55jhq

among municipalities within a province, in the frequency and method of property value assessment, the classification of properties for tax purposes, whether provincial or municipal government is responsible for conducting property assessment, and whether municipalities are permitted to use tax abatements as economic development incentives.[54] While municipalities can set rates of property taxation, subject to provincial and territorial regulation, some provinces have imposed limits on how much they can be increased each year (Kitchen, Slack, and Hachard 2019). New Brunswick centralizes tax collection, receiving property taxes directly and distributing the funds to municipalities along with equalization and other grants.

Table 5.1. Sources of Revenue Enabled for Operating Purposes in Provincial /Territorial Law

Source	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU
Tax on real property	•	•	•	•	•	•	•	•	•	•	•	•	•
Vacant dwelling tax	• *				• *								
User fees	•	•	•	•	•	•	•	•	•	•	•	•	•
Licence, franchise, and permit fees	•	•	•	•	•	•	•	•	•	•	•	•	•
Fines and penalties	•	•	•	•	•	•	•	•	•	•	•	•	•
Business occupancy tax		•		•		•				•			
Accom-modation levies and fees**				•	•			H **	•	•		•	•
Land transfer tax				•	T **	•		•					
Billboard tax				W **	T **								
Electricity & natural gas con-sumption				W **									

* Designated municipalities. ** Collected by municipalities directly. H=Halifax; T=Toronto; W=Winnipeg.

To discourage speculative ownership of empty housing, some municipalities in British Columbia and Ontario are authorized to levy vacant dwelling taxes, typically as a percentage of assessed value, sometimes with different rates for non-Canadian citizens or permanent residents.[55]

54 Alberta, for example, has amended the *Municipal Government Act* to enable municipalities to rebate property taxes over multi-year periods in order to attract and retain businesses. See Bill 7, the *Municipal Government (Property Tax Incentives) Amendment Act*, 2019, which received Royal Assent on June 28, 2019. https://canlii.ca/t/53pp8

55 British Columbia gave designated municipalities the ability to levy a vacant dwellings tax in its 2018 budget bill (*Budget Measures Implementation (Speculation and Vacancy Tax) Act*, 2018, SBC 2018, c46), https://canlii.ca/t/55k4k). Ontario introduced a similar authority in its 2017 budget bill, which amended the *Municipal Act* to add Part IX.1, Optional Tax on Vacant Residential Units. The City of Vancouver introduced its own tax in 2017 (Vacancy Tax By-Law #11674).

In provinces with remote regions in which property values are not assessed, or regions with sufficiently low demand for property that valuation is difficult, other revenue sources must be found. In Newfoundland and Labrador, for example, local service districts levy user fees in unincorporated areas for water and sewer services, fire protection, solid waste management, street lighting, animal control, and road clearing and maintenance (*Towns and Local Services District Act,* s. 259; French 2024).[56] Other provinces, including British Columbia under the *Taxation (Rural Area) Act*, Ontario under the *Provincial Land Tax Act*, and New Brunswick, also directly levy land taxes in unincorporated areas.[57]

Given broad municipal discretion to design fee regimes for services, licences, and permits, and to impose fines, it is difficult to generalize regarding their application. Even within municipalities, there is no doubt considerable variation in the degree to which user fees are intended to achieve full cost recovery. Nevertheless, many Canadian municipalities have in recent decades shifted an increasing share of the funding of private goods from the property tax to user fees, principally for the provision of water and sewer services and solid waste collection. As Althaus and Tedds (2016, ch. 3) report, there is extensive but sometimes inconsistent case law regarding the legal distinction between user fees, taxes, and licence fees.

5.1.2 Business occupancy taxes

Municipalities can levy property taxes on non-residential properties in all provinces. Four provinces, however, also permit municipalities to levy separate business occupancy taxes: Alberta, Manitoba, Québec, and Newfoundland and Labrador. Sometimes, business occupancy taxes are levied in relation to property values; in other cases, they are levied in relation to revenues, rental values, or other measures.

The Newfoundland and Labrador *Towns and Local Services District Act* enables municipalities to assess a "business tax" as a percentage of the gross revenue of a business if the "property tax is not applicable to a business because it has no fixed place of business or a place of business cannot be assessed" (s. 125(2)(b)), or, if business property has been assessed but the municipality does not levy a property tax, it may assess a business tax as a percentage of the assessed value of business property (s. 125(2)(a)). Manitoba also enables a municipal "business tax," although the *Municipal Act* and the *Municipal Assessment Act*[58] are silent on the process of assessing business properties for the purposes of these taxes.

Under Alberta's *Municipal Government Act* (ss. 371–380), municipalities may assess business tax as a percentage of the gross or net annual rental value of the premises, the storage capacity of the premises, floor area, or assessed property value. Similarly, section 232 of Québec's *Act Respecting Municipal Taxation* enables local municipalities to impose a business tax "on the basis of its rental value."[59]

In most provinces, business occupancy taxes have been eliminated to improve business competitiveness. For example, Ontario abolished its business occupancy tax in 1998 and Nova Scotia did so in 2006. The City of Calgary (n.d.) voted to consolidate its business tax with its non-residential property tax in 2011, completing the process in 2019.

56 Prior to the passage of the *Towns and Local Services District Act* in 2024, Newfoundland and Labrador municipalities that did not levy a property tax could levy a flat-rate poll tax. The act eliminated the poll tax and requires all towns to levy a property tax.
57 See *Provincial Land Tax Act*, 2006 SO 2006, c 33, Sch Z.2, https://canlii.ca/t/52v3j; and *Taxation (Rural Area) Act*, RSBC 1996 c 448. https://canlii.ca/t/56jh6
58 *The Municipal Assessment Act*. CCSM c M226. https://canlii.ca/t/56jm6
59 *Act Respecting Municipal Taxation* (n.d.) CQLR c F-2 1. https://canlii.ca/t/56kx2

5.1.3 Other taxes and fees

Other revenue streams, including accommodation levies, land transfer taxes, and energy taxes, are used in various cities and provinces on a piecemeal basis. Unlike some American jurisdictions, no Canadian municipality may levy a retail sales or payroll tax.

Hotel and motel accommodation levies and destination marketing fees are increasingly common (see Yukon Tourism 2017). As Table 5.1 shows, municipalities collect them directly in Manitoba, Ontario (as of 2019), Nova Scotia (Halifax only), Prince Edward Island, and Newfoundland and Labrador (as of 2023 outside St. John's). In Alberta, Saskatchewan, and New Brunswick they are collected by third-party tourism organizations, while in British Columbia and Québec they are collected by the Province directly or by a provincial organization.

Several provinces permit municipalities to tax land or deed transfers. Ontario allows the City of Toronto to piggyback on its Land Transfer Tax, but this arrangement is not available to other municipalities. Tassonyi and Conger (2015, 25) report that Manitoba, Nova Scotia, and Québec also permit municipal land or deed transfer taxes, but no Manitoba municipality levies it in practice. Halifax is exploring raising its deed transfer tax to fund infrastructure development (Ryan 2025).

Winnipeg may be the only municipality that directly imposes taxes on residential and commercial electricity and natural gas consumption (*Winnipeg Charter*, ss. 441–450). The City also imposes a tax on amusements (the Entertainment Funding Tax), levied on admissions to large venues.

Winnipeg, and Toronto, are permitted to tax billboards and signs. Under authority conferred by the *City of Toronto Act*, 2006, Toronto also taxed motor vehicle registrations between 2008 and 2011. The Province amended the Act to explicitly exclude this practice in its 2025 budget bill.

5.2 Revenues for capital purposes

Municipalities rely on a variety of sources for capital expenditures. In addition to intergovernmental transfers, they

- levy special assessments;
- borrow funds and issue bonds and debentures;
- levy development charges (also known as development cost charges or impact fees) or community benefit charges to fund growth-related capital costs;
- may require cash in lieu of provision of parkland when land is developed; and
- capture land value uplift using tools such as density bonusing to secure public benefits in exchange for development rights above what regulation permits.

Tax increment financing is used to direct incremental property tax revenues to repay debt incurred for investments that raise land values, typically within a defined district. User fees are also commonly used to fund maintenance and expansion of infrastructure that delivers private goods, such as water. The availability of these revenue sources is summarized in Table 5.2. For more detailed discussion, see Slack and Tassonyi (2017).

Table 5.2. Sources of Revenue for Capital Expenditures

Source	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT	NT	NU
Borrowing	•	•	•	•	•	•	•	•	•	•	•	•	•
Special assessments	•	•	•	•	•	•	• *	•		•	•	•	•
Local improvement districts	•	•	•	•	•	•	•	•	•	•	•		
Development levies/charges	•	•	•	•	•		•	•		•	•		
Density bonusing	•	•	•	•			•	•	• **				
Tax increment financing		•	•	•	• ***								

* The Province may levy a business improvement area levy on behalf of business improvement area corporations.
** Charlottetown only.
*** While Ontario has authorized tax increment financing in statute, it has not passed enabling regulations.

5.2.1 Special assessments and local improvement districts

A straightforward way for municipalities to raise funds for new or improved capital facilities is to levy a property surtax or frontage fee[60] on properties that benefit from the new facilities. Most provinces provide for some form or another of special assessment over and above property taxes to cover incremental capital costs.[61] This logic may be taken further by establishing local improvement districts, which are also authorized to issue debt. Similar in principle, but applying to all residential property owners, the City of Toronto adopted the City Building Fund levy, a property tax increment dedicated to capital expenditures, in 2017.

5.2.2 Borrowing

All provinces and territories promote municipal fiscal solvency by either requiring approval for capital borrowing by the minister or a delegated authority, such as a municipal board, limiting debt servicing costs as a proportion of current revenues (that is, revenues collected to fund the operating budget within a fiscal year), or limiting total outstanding debt, usually as a percentage of assessed property value (see also Tassonyi and Conger 2015, 15–17; Slack and Tassonyi 2017, 25; Amborski 1998; Hanniman 2015).[62] Debt must be repaid from current revenues, and so debt servicing costs appear in the operating budget. The rules in each province are complex, and defy easy summarization. Table 5.3 reveals a diversity of approaches but no strong pattern or convergence of practices.

60 A frontage fee is a fee levied in proportion to the relative length of the front of a lot; that is, the side of a lot that runs along a street.

61 We do not discuss provisions for local improvement districts in unincorporated areas. In Western Canada especially, local improvement districts have been used as a substitute for general-purpose municipal corporations in sparsely populated areas. The terminology differs from one province to the next. For example, the *Newfoundland and Labrador Towns and Local Service Districts Act* authorizes "local improvement fees" (s. 142) and Alberta's *Municipal Government Act* provides for a "local improvement tax" (s. 391).

62 In this brief discussion, we do not distinguish between short-term and long-term borrowing, or between bank loans, bonds, and debentures.

Table 5.3. Limitations on Borrowing

Prov./ Terr.	Prior provincial approval of bond issues	Elector approval	Cap on debt servicing costs	Cap on total debt/ liabilities
BC	*Community Charter*, s. 179 – subject to exceptions in regulation	*Community Charter*, s. 180 – subject to exceptions in regulation	*Municipal Liabilities Regulation*, BC Reg 254/2004 – 25% of current revenues	*Vancouver Charter*, s. 236(1) – 20% of assessed property value
AB			*Municipal Government Act*, ss. 251–263; *Debt Limit Regulation*, Alta Reg 255/2000 – 25–35% of own-source revenue	*Municipal Government Act*, ss. 251–263; *Debt Limit Regulation*, Alta Reg 255/2000 – 150–200% of own-source revenue
SK	If cities do not have debt limits or amount exceeds debt limit			*Cities Act,* s. 133(1) – Municipal Board may set debt limits
MB	*Municipal Act*, s. 176 – approval by Manitoba Municipal Board		Per Municipal Board policy – maximum 20% of current revenues*	Per Municipal Board policy – maximum 7% of assessed value of property*
ON			*Debt and Financial Obligation Limits*, O Reg 403/02 applies to all municipalities except Toronto (25% of own-source revenues)	
QC	*Act Respecting Municipal Debts and Loans*; *Municipal Code,* s. 1061; *Cities and Towns Act*, s. 543 – with exceptions	*Municipal Code,* s. 1061; *Cities and Towns Act*, s. 543 – with exceptions		
NB	*Municipal Capital Borrowing Act*			*Local Governance Act*, s. 100(4) – 2% of assessed value of property*
NS	*Municipal Government Act,* s. 88; *HRM Charter Act*, s. 111 – required above dollar threshold	*Municipal Government Act*, s. 90 – villages and local service districts only	30% of own-source revenue*	*Municipal Government Act*, s. 86; *HRM Charter Act*, s. 109 – Minister may establish limits
PE				*Municipal Government Act*, s. 164 – relative to assessed value of property
NL	*Towns and Local Service Districts Act*, s. 100			
YT		*Municipal Act*, s. 252(2) – Minister may order if total debt above cap		*Municipal Act*, s. 252(1) – 3% of current assessed value of all real property unless Minister varies
NT	*Cities, Towns, and Villages Act*, s. 112; *Cities, Towns and Villages Debt Regulations*, NWT Reg 070-2005	*Cities, Towns, and Villages Act*, s. 112 – subject to conditions	*Cities, Towns, and Villages Act*, s. 108; *Cities, Towns and Villages Debt Regulations,* NWT Reg 070-2005, ss. 6–7 – 25% of current revenues	
NU		*Cities, Towns, and Villages Act (Nu)*, s. 250(3–4) – Minister may exempt		*Cities, Towns, and Villages Act (Nu)*, s. 250(2) – Minister may prescribe limits

* See Slack and Tassonyi (2017, 24).

Prior approval of bond issues by the minister or a delegated authority is most common in jurisdictions with small municipalities that may have limited fiscal and administrative capacity. British Columbia requires approval from the Inspector of Municipalities for longer-term debt. Manitoba requires all capital bylaws to be approved by the Manitoba Municipal Board. Section 1061 of Québec's *Municipal Code* states that "Every by-law of a local municipality referred to in the first paragraph must be approved by the qualified voters and by the Minister of Municipal Affairs, Regions and Land Occupancy," although there are some exceptions.[63] New Brunswick, Newfoundland and Labrador, and the Northwest Territories require provincial or territorial approval before borrowing from capital markets.[64] British Columbia, Québec, Nova Scotia (villages and local service districts only), and the three territories require elector approval of bond issues under some circumstances.

Most provinces impose limits on debt servicing costs, or on the total value of debt outstanding, or both, through regulation. British Columbia, Alberta, Manitoba, Ontario, Nova Scotia, and the Northwest Territories set regulatory limits on the proportion of own-source revenues (that is, excluding transfers) or current revenues accounted for by debt servicing costs. Alberta caps limits on total outstanding debt as a proportion of own-source revenues. The City of Vancouver, Manitoba, Saskatchewan, New Brunswick, Prince Edward Island, and the Yukon set total debt limits relative to the total assessed value of property in the municipality. Again, the percentages vary and are subject to the discretion of the minister or a delegated authority, such as Manitoba and Saskatchewan's municipal boards.

In British Columbia and New Brunswick, provincial agencies issue debt on behalf of all municipalities.[65] Other provinces used to centralize borrowing but have vacated this role. The Newfoundland and Labrador Municipal Financing Corporation borrowed on behalf of municipalities between 1964 and 2006, but is in the process of being wound down (Newfoundland and Labrador 2025). Nova Scotia passed a bill to sunset its Municipal Finance Corporation in 2022, with the government taking over the function directly.[66] Other provinces play a more limited role in mediating municipal borrowing. Financement-Québec, Infrastructure Ontario, and the Saskatchewan Municipal Financing Corporation lend money to municipalities and other public entities, but their use is not mandatory.

5.2.3 Development charges, levies, and impact fees

One-time fees levied on new development to finance growth-related infrastructure – sometimes referred to as "lot levies" – are called "development charges" in Ontario and New Brunswick, "development cost charges" in British Columbia, "development levies" in Saskatchewan, "capital cost charges" in Nova Scotia, "service levies" in Newfoundland and Labrador, and "off-site levies" in Alberta. In the United States they are commonly referred to as "impact fees."

For administrative convenience, uniform fees for units of different classes of property are typically levied municipality-wide (average cost pricing) rather than reflecting the specific cost of service provision at the subdivision or parcel scale (marginal cost pricing). Québec is an exception; the *Act Respecting Land Use Planning and Development* provides for "municipal works agreements" between

63 Additional requirements are specified in the *Act Respecting Municipal Debts and Loans,* CQLR c D-7. https://canlii.ca/t/55dk7

64 *Municipal Capital Borrowing Act*, RSNB 1973 c M-20. https://canlii.ca/t/56brx

65 Municipal Finance Authority of British Columbia, https://mfa.bc.ca; and *New Brunswick Municipal Finance Corporation Act*, SNB 1982 c N-6.2. https://canlii.ca/t/566sm

66 *Municipal Finance Corporation Dissolution Act*, SNS 2022 c 38. https://canlii.ca/t/55mlm

developers and municipalities (ss. 145.21–30).[67] Typically, these fees are passed on to the property purchaser by the developer.

There is variation across the country in what these charges or fees may fund (see also Baumeister 2012). Some frameworks, including Alberta's, limit expenditure to hard services, such as piped infrastructure and roads. Others allow funds to be spent on parks and recreation facilities (British Columbia and Saskatchewan). Ontario's regime has become more restrictive in recent years. Bill 108,[68] the *More Homes, More Choice Act*, 2019, narrowed the range of eligible services that can be covered by development charges and shifted the cost for several services to a new community benefits charge. More recently, Bill 23,[69] the *More Homes Built Faster Act,* 2022, removed "housing services" as an eligible category and instead introduced various exemptions and discounts for housing developments. Bill 185,[70] the *Cutting Red Tape to Build More Homes Act,* 2024, partially reversed some elements of Bill 23.

5.2.4 Density bonusing

Incremental property tax revenues flowing from land value uplift are the most basic form of land value capture. Another form is density bonusing (see also Moore 2013). In exchange for permitting a rezoning of land to a higher use, thereby increasing its value, the property developer agrees to construct facilities or infrastructure, or to contribute cash in lieu to pay for on- or off-site benefits of various kinds, including, for example, public realm improvements. Density bonusing is available in Nova Scotia (*Municipal Government Act,* s. 220(5)(k) and *Halifax Regional Municipality Charter*, s. 31A), in British Columbia (*Local Government Act*, ss. 482 and 904), and several other provinces.

Historically, density bonusing was widely used in Ontario under the *Planning Act* (s. 37).[71] Bill 108, the *More Homes, More Choice Act*, 2019, replaced density bonusing with community benefits charges imposed by municipal bylaws, subject to a regulation that specifies for what purpose the charge may be collected and how the charges can be spent.[72] (It should be noted that while density bonusing entailed an exchange of benefits for more lucrative development, Ontario's new community benefits charges are more akin to a development charge: a flat fee levied as percentage of a development's land value, up to a maximum of 4 percent.)

5.2.5 Tax increment financing

With tax increment financing (TIF), a municipality borrows money to make a localized improvement that is expected to increase land values. The property continues to be taxed at its prior rate; however, revenues are collected from the increment in land value to pay for the investment that increased the land value. TIF is widely used – and controversial – in the United States.

TIF is authorized in Manitoba, both generally (*Municipal Act,* s. 261.3) and in the *Winnipeg Charter* (s. 222), as well as in Alberta and Ontario. Alberta permits a "community revitalization levy," subject to ministerial approval, whereby a council may "impose a levy in respect of the incremental assessed value of property in a community revitalization levy area to raise revenue to be used toward the payment of infrastructure and other costs associated with the redevelopment of property in the community revitalization levy area" (*Municipal Government Act*, s. 381.2(2)). While Ontario has enabled

67 *Act Respecting Land Use Planning and Development*, (n.d.) CQLR c A-19 1. https://canlii.ca/t/56kk0
68 Bill 108. (2019). *More Homes, More Choice Act*, 2019 SO 2019, c 9. https://canlii.ca/t/5604p
69 Bill 23. (2022) *More Homes Built Faster Act*. 2022 SO 2022, c21. https://canlii.ca/t/56089
70 Bill 185. (2024). *Cutting Red Tape to Build More Homes Act*, 2024, SO 2024, c 16. https://canlii.ca/t/5696f
71 *Planning Act*. RSO 1990, c P. 13. https://canlii.ca/t/56jdl
72 *Community Benefits Charges and Parkland*, O Reg 509/20. https://canlii.ca/t/56b4f

TIFs in statute, it has never enacted enabling regulations. While not the same as a TIF, because they entail a subsidy, Ontario municipalities may issue subsidies called tax increment equivalent grants to property owners as part of community improvement plans (*Planning Act,* s. 28).

5.3 Conclusions

Greater local revenue-raising autonomy and the enabling of a greater diversity of revenues are often portrayed as ways to make local governments more nimble, accountable to their residents, and insulated from arbitrary provincial action (Slack 2017). Our review shows that the revenue sources available to municipalities for operating and capital purposes are broadly similar across Canada. All municipalities are empowered to levy property taxes and user fees for services, charge fees for licences and permits, and impose fines and penalties. These sources, along with intergovernmental transfers, fund virtually the entirety of municipal operating budgets. Municipalities have broad discretion to set tax rates and establish levels of user fees. Additional sources, including taxes on short-term accommodation, land transfers, and billboards, are available in some provinces and territories, but these account for a relatively small proportion of the overall operating budget. Unlike the United States and some other countries, no province or territory permits municipalities to raise their own retail sales or income taxes.[73] Excise and business occupancy taxes are rare.

For capital expenditures, all provinces and territories enable municipalities to issue bonds for general or specific purposes (sometimes through a provincial borrowing agent), and to levy special assessments. Borrowed funds must be repaid from current revenues, principally raised through property taxes and user fees. To sustain municipal solvency, provincial and territorial laws and regulations limit debt for capital purposes by imposing limits on total debt, capping debt servicing costs, or requiring approval to borrow. Most provinces provide for development charges and permit some form of density bonusing, all within strict legal frameworks. Several provinces also permit forms of tax increment financing.

Overall, the review suggests that Canadian municipalities have fiscal autonomy in the sense that most of their annual revenues are raised locally; however, the menu of local revenue sources available to municipalities is constrained. Debates surrounding the adequacy of municipal revenues have focused on opening up new tax fields to local governments – including value-added taxes (an HST surtax, for example), retail sales and excise taxes, and land transfer taxes – or removing prohibitions on particular user fees, such as road and bridge tolls. It is commonly argued that diversifying local revenue sources away from the property tax for operating expenditures would make local finances more stable while tapping sources more directly tied to economic and population growth. Moreover, access to new own-source revenues is also viewed as a solution to the unpredictability of, or limitations on, intergovernmental transfers for capital investments.

An ideal revenue mix remains elusive. There are good reasons why Canadian municipalities operate under broadly similar fiscal rules, yet these rules are criticized as overly restrictive, especially by big cities (see Box 5.2). If we assume that fundamental change is not on the table, the question then becomes whether municipalities fully exploit the revenue sources they already possess. Past analyses have shown that they likely do not (Bird, Slack, and Tassonyi 2012, ch. 8; Tassonyi and Conger 2015).

73 Municipalities in some provinces levied income and other taxes as recently as the 1930s, but these powers did not survive the Depression.

Box 5.2: The Elusive Revenue Mix

The revenue mix has evolved the way it has for understandable reasons. While there is a strong case to be made that municipalities, and especially the larger cities, require more revenues, and from sources that increase in proportion to economic and population growth to better perform their tasks (e.g. Federation of Canadian Municipalities 2024), the fact remains that taxes on immovable property and user fees on locally consumed public goods are "good" taxes for local governments. This is because mobile people cannot move their land from one municipal jurisdiction to another and local user fees recoup the incremental cost of consumption for residents and visitors alike. Local discretion over taxes on mobile activities risks destructive competition between municipalities for mobile households and businesses, a zero-sum game.

One answer to this is greater reliance on transfers from other governments to fund local activities; however, this necessarily reduces local governments' accountability to residents for their spending decisions, even if transfers have few or no conditions, and may not be stable or predictable. The economic rationale for transfers is twofold. First, local activities may generate "externalities": positive or negative effects beyond the municipality's border. Conditional transfers may incentivize positive externalities while disincentivizing negative ones. Second, redistribution across space may be desirable to achieve equity goals. Fiscal equalization grants enable jurisdictions to provide similar levels of service at similar levels of taxation. Ultimately, Canadian municipalities' "fiscal constitution" (Blöchliger and Kantorowicz 2015) embodies a trade-off between local accountability, fiscal adequacy in relation to responsibilities, and the management of externalities – one that governments must revisit as conditions and needs change.

6. Asymmetrical Arrangements

The focus to this point has been on general municipal legislation; that is, legislation that applies to all (or almost all) municipalities or specific categories of municipalities within a province or territory. The use of general enabling frameworks rather than special acts to authorize municipal authority has long been the norm in Canada, one that was consolidated earlier even than in Great Britain (Taylor 2019, 47–51). In the United States, by contrast, one-off, idiosyncratic laws emerged as typical means of establishing and empowering local governments in the 19th century, a practice that continues to this day. For this reason, there is much greater institutional variation among American local governments than there is in Canada.

From the provincial or territorial perspective, a symmetric treatment of municipalities through a permissive general framework offers the potential for administering local government as a system. From the municipal perspective, however, asymmetrical provisions through special legislation permit the tailoring of institutions and jurisdiction to local conditions. For example, Winnipeg is the only Manitoba municipality to have been granted natural person power under the *City of Winnipeg Charter Act*. This logic grounds demands for bespoke legislative arrangements for large cities, which are understood to possess special requirements, conditions, and needs.

Both impulses are at work in Canada today; the trend toward more permissive exercise of municipal authority described above exemplifies general or symmetric treatment, while demands for big-city charters exemplify movement toward special or asymmetric arrangements. We define a "charter" as the creation of independent enabling legislation for a specific municipality, separate from the existing

general statute. The term "charter" is borrowed from corporate law. The historical precursors of today's private and public corporations, such as the Hudson's Bay Company, were "chartered" through the passage of a special act. As public corporations, early municipalities were chartered using the same legal mechanism.

Whether empowering all local governments through a permissive and flexible general framework would deliver better practical outcomes than the separate empowerment of individual municipalities is a matter of public debate in Canada and elsewhere. Much hinges on the degree to which the chosen legal structure is enabling and permissive as opposed to restrictive and directive. There is no legal reason for charters to be more permissive than general municipal laws, as is sometimes implied in public discourse. Politics determines the substance of the law, not the law itself.

This section discusses asymmetrical legal arrangements for specific municipalities in some provinces, with a focus on how they differ from the general municipal law operative in their provinces. We have grouped them into two models: *detachment* and *layering*.

6.1 Detachment

The first model is *detachment*: the enactment of a special law, customarily called a "charter," from which a single municipality derives its primary jurisdiction and powers. This does not mean that the municipality derives *all* powers from the special law. Rather, its defining feature is that the municipality is excluded from the effect of general law empowering municipal government elsewhere in the province. For example, although the City of Toronto is incorporated and empowered by the *City of Toronto Act*, 2006, it, like all other Ontario municipalities, remains subject to many other laws concerned with public health, land use planning, building standards, and so on. The *City of Toronto Act* simply means that the City of Toronto is not subject to the general *Municipal Act*.

In some cases, including Vancouver and Montréal, municipalities were initially incorporated by a special law and have remained so throughout their history. These incorporations occurred either in parallel to general municipal legislation (from which the cities were exempt), or prior to its passage. In other cases, such as the City of Toronto, a municipality long governed by general municipal law was legally detached from it by the legislature. In the case of Saint John, an ancient royal charter was nominally sustained while bringing the municipality under general legislation.[74]

The goal of detaching a single municipality from the general framework is to grant it powers that other municipalities do not, and should not, have, since if all municipalities were to exercise such powers, the legislature could simply amend the general law. The analytic question, then, is to identify how the content of special legislation differs from the general legal framework. To assess this, we briefly examine the special statutes for several municipalities, drawing on Kitchen (2016) and other sources.

6.1.1 The Vancouver Charter, 1953

British Columbia enacted a rudimentary general law regulating municipal incorporation before joining Canada in 1871 (Bish and Clemens 2008, 22–23). The City of Vancouver, however, was established by special legislation, the *Vancouver Incorporation Act*, 1886,[75] the current iteration of which is the *Vancouver Charter*, 1953. British Columbia's *Community Charter*, 2003 and *Local Government Act*, 1996, do not apply to Vancouver.

74 See *An Act Respecting the Royal Charter of the City of Saint John*, SNB 1967, c 81. https://canlii.ca/t/550r8

75 *Vancouver Charter (Vancouver Incorporation) Act*, SBC 1886, c 32.

The *Vancouver Charter* and the general law governing the province's other municipalities differ in several important respects. In particular, the *Vancouver Charter* exemplifies the express powers doctrine in that it itemizes services, whereas the *Community Charter* grants a permissive sphere of authority. At the same time, Vancouver's charter confers authority not available to other municipalities, including

- the ability to borrow on its own authority without approval by the Municipal Finance Authority, a provincial agency that issues debt on behalf of all other municipalities in the province;
- the power to establish its own building code and impose requirements without provincial oversight;
- the power to prohibit businesses or business activities;
- the ability to impose specialized development cost levies (City of Surrey 2007).

In 2018, the *Charter* was amended to permit the City to impose a tax on vacant housing, distinct from the Speculation and Vacancy Tax levied by the British Columbia government directly in designated regions, including the City of Vancouver.

The *Vancouver Charter* has also enabled the evolution of a distinct land use planning regime, which follows the British practice of development control through permits that need not be consistent with an adopted zoning bylaw. Vancouver's council is also authorized to delegate development permission to the Director of Planning, whereas the *Community Charter* requires municipal councils to approve all development permits and requires that this permission be consistent with approved zoning. Another idiosyncratic feature of Vancouver's charter is that it has enabled the City to adopt its own building code that supplements the provincial code.

6.1.2 The City of Toronto Act, 2006

Toronto was chartered by special act in 1834, but in 1849 was brought under the general municipal law commonly known as the *Baldwin Act*.[76] It, along with all other Ontario municipalities, remained under the jurisdiction of the *Municipal Act* until 2006, when the *City of Toronto Act* detached the City's incorporation and grant of authority from the general law.

At the time of its enactment, the *City of Toronto Act* differed from the *Municipal Act* in several respects, but some Toronto-only powers were later added to the general act. The explanatory note at the beginning of Bill 130, which amended the *Municipal Act*, states, "[T]he amendments to the *Municipal Act,* 2001, would give municipalities most of the powers and duties that were given to the City of Toronto under the *City of Toronto Act,* 2006." The grant of authority, including spheres of jurisdiction, statement of purpose, and natural person powers provisions, are worded almost identically in the two acts (Sancton 2016).

Despite this high degree of symmetry between the two acts, the City of Toronto does have some unique powers, including the ability to levy taxes not available to other municipalities. Section 267(1) authorizes the City to levy any direct tax, but this permissive authority is limited by a list of exclusions. In effect, the City is not permitted to tax income, payrolls, wealth, inputs to economic production (e.g. machinery and natural resources), energy consumption, sales of goods and services, or on the basis of residence (a poll tax). An amendment made in the 2025 Ontario budget implementation bill also

76 Baldwin Act. (1849). *An Act to provide, by one general law, for the erection of Municipal Corporations, and the establishment of Regulations of Police, in and for the several Counties, Cities, Towns, Townships and Villages in Upper-Canada*, 12 Victoria, c 81. https://n2t.net/ark:/69429/m0xd0qr4p35b

removed the City's ability to impose tolls on roads or tax personal vehicle registrations (a tax it had not levied since 2011). A scope for new taxes remains after these exclusions. The City currently levies the Municipal Land Transfer Tax collected on its behalf by the provincial government, the Third Party Sign Tax on billboards, a vacant home tax, and the Municipal Accommodation Tax.

The City of Toronto can also set its own limitations on borrowing, although sections 256–257 of the *City of Toronto Act* permit the Lieutenant Governor in Council to enact regulations regarding any aspect of the municipality's financial activities. The City has chosen to set stricter rules than those specified in the general *Municipal Act*.

6.1.3 The City of Winnipeg Charter Act, 2002

As in British Columbia, general municipal legislation was adopted soon after Manitoba joined Confederation and continues as the *Municipal Act*, 1996. After an unsuccessful attempt by local citizens to incorporate Winnipeg under the general municipal law, the City of Winnipeg was chartered by special law in 1873, and it has remained governed by special legislation ever since. Winnipeg's governance has undergone considerable reform since the Second World War, with comprehensive institutional restructurings in 1960 and 1972.

The purposes in Winnipeg's charter (s. 5(1)) reflect, but differ slightly from, those in the *Municipal Act* (s. 3). Both laws state that the purposes of the municipality are to provide good government, to provide services the council deems necessary or desirable, and to promote and maintain a "safe" and "viable" community. To this the *Winnipeg Act* adds "to promote the health, safety, and welfare of the inhabitants." The *Winnipeg Charter* contains additional clauses, not paralleled in the general law, which recognize the City as "a responsible and accountable government" (s. 5(2)) whose authority is to be broadly interpreted (s. 6). The charter also confers natural person power (s. 7(1)).

Both Winnipeg's charter and the *Municipal Act* contain broadly permissive grants of authority. The *Winnipeg Charter* is more detailed in its enumeration of spheres of jurisdiction (Pt. 5) than is the *Municipal Act* (Pt. 8), although Kitchen (2016, 4) finds that the spheres of jurisdiction and mandated services are broadly similar in both laws. However, unlike all other Manitoba municipalities, Winnipeg may borrow without seeking approval from the Manitoba Municipal Board.

The 2002 *Winnipeg Charter* gave the City unique authority to establish tax increment financing districts and offer certain types of grants and tax credits, but these provisions were later incorporated into the general *Municipal Act*. Nevertheless, Winnipeg remains uniquely capable of levying taxes on gas and electricity consumption, as well as business improvement taxes within designated zones.

6.1.4 The City of St. John's Act, City of Corner Brook Act, and City of Mount Pearl Act, 1990

A general municipal statute, the *Towns and Local Service Districts Act,* 2023 (which replaced the *Municipalities Act,* 1999), governs most towns and smaller municipalities in Newfoundland and Labrador. The province's three "cities" – St. John's, Corner Brook, and Mount Pearl – are instead each governed by special legislation passed in 1990. In the case of St. John's, the 1990 legislation replaced the 1921 *City of St. John's Act* that incorporated the municipality; Mount Pearl had previously been incorporated in 1955 under general legislation, while Corner Brook had been established under special legislation in 1956.

Prior to the passage of the *Towns and Local Service Districts Act* in 2023, both the general and special statutes reflected older legal approaches. Neither the former *Municipalities Act* nor the current *City of*

St. John's Act, the *City of Corner Brook Act*, and the *City of Mount Pearl Act* contain a general statement of municipal purposes, a broad grant of authority, statements of broad interpretation, spheres of jurisdiction, or natural person powers. Instead, these acts reflect a continued reliance on the enumeration of express powers and a narrow construction of legal authority. As a result, similar to the City of Vancouver vis-a-vis other municipalities in British Columbia, Newfoundland and Labrador's three cities are currently more legally constrained than the province's other municipalities governed by the *Towns and Local Service Districts Act*.

6.1.5 The City of Lloydminster Act, 2004

The City of Lloydminster, which is bisected by the Alberta-Saskatchewan border, operates under a unique arrangement: a longstanding cooperative agreement by both provinces to mirror their legislation to establish a single municipal corporation drawing its authority from special legislation. The Alberta *Municipal Government Act* and Saskatchewan *Cities Act* and *Municipalities Act* do not apply. Parallel *City of Lloydminster Acts* in each province are essentially shells that enable the Lieutenant Governor in Council of each province to enact identical municipal "charters" by regulation.[77]

6.2 Layering

The second model is *layering*. In this approach, the municipality remains subject to general municipal law but its authority is augmented by special laws or regulations. In principle, layering enables the best of both worlds: harmonized provisions that apply to all municipalities combined with customization where appropriate.

6.2.1 Montréal, Québec, Gatineau, Lévis, and Longueuil

Several Québec municipalities are subject to the general *Cities and Towns Act* and the *Municipal Powers Act*, but their authority is augmented by special legislation. For example, the City of Montréal is also governed by *The Charter of the Ville de Montréal, Metropolis of Québec Act*, 2017.[78] Special laws pertaining to Québec City, Gatineau, Lévis, and Longueuil also contain provisions specific to each municipality.[79]

A substantial proportion of each municipality's charter is devoted to defining the distinct institutions of the municipality, including the roles of specific entities and additional spheres of jurisdiction designated to the municipal government. The *Montréal Charter,* for example, discusses the powers of the City and borough councils, as well as provisions relating to the dissolution of the former Montréal Urban Community and the mergers and demergers that occurred in the early 2000s. Section 84 states that the "city has jurisdiction in all matters within the jurisdiction of a local municipality" as defined in the *Municipal Powers Act*. These are supplemented by enumerated fields of jurisdiction for the city council, such as land use planning and development and economic promotion (Ch. III, Div. II) and borough councils, such as urban planning, fire safety, and civil protection (Ch. III, Div. III). The charter also mandates the City to "adopt a Montréal charter of rights and responsibilities" (s. 86.1), which it did in 2006.

77 See Alberta Reg 212/2012 and Saskatchewan OC 595/2012; *City of Lloydminster Act*, SA 2005, c C-13.5, https://canlii.ca/t/j876; *The City of Lloydminster Act*, SS 2004, c C-11.2. https://canlii.ca/t/h636

78 *Charter of Ville de Montréal, metropolis of Québec*, CQLR c C-11.4. https://canlii.ca/t/56kk9

79 *Charter of Ville de Québec, national capital of Québec*, CQLR c C-11.5, https://canlii.ca/t/56kkb; *Charter of Ville de Gatineau*, CQLR c C-11.1, https://canlii.ca/t/56klg; *Charter of Ville de Lévis*, CQLR c C-11.2, https://canlii.ca/t/56kk7; and *Charter of Ville de Longueuil*, CQLR c C-11.3. https://canlii.ca/t/56kk8

6.2.2 Calgary and Edmonton

The Alberta government amended the *Municipal Government Act* in 2015 to enable the Lieutenant Governor in Council to establish "city charters" by regulation (s. 141.1). The provision is sweeping, stating that the charter regulation may exempt the municipality to which it applies from any law, confer authority not currently in law, and allow the City, by bylaw, to "modify or replace… a provision of this Act or any other enactment" (s. 141.5(3)). Moreover, s. 141.6 states that any inconsistencies between the charter regulation and provincial law are resolved in favour of the former.

The Calgary and Edmonton regulations purport to amend statutes. An interpretive clause states that the charter sections "modify" the provisions of the *Municipal Government Act*, "as it is to be read for the purposes of being applied to the City" (s. 4(1)). The regulation renumbers sections and subsections of the statute, inserts new clauses, and amends existing ones. Other statutes, including the *Traffic Safety Act*,[80] are similarly modified.

The charters are broadly enabling. Section 4(4) reads an expansive enabling clause into the *Municipal Government Act:*

> 8.1 Without restricting the generality of sections 7 and 8 [of the *Municipal Government Act*, which establish municipal spheres of jurisdiction and bylaw authority], the council may pass a bylaw for any municipal purpose set out in section 3 [of the *Municipal Government Act*].

As the "purposes" in section 3 of the *Municipal Government Act* are broadly encompassing, the charters grant the cities a permissive and open-ended scope of authority.

The charters also establish new powers and areas of jurisdiction that Calgary and Edmonton may exploit by bylaw. Specifically, the cities now have the authority to enact new forms of statutory land use regulation (s. 4(33)), define their own subdivision approval standards (s. 4(35)), levy supplementary assessments on property that has changed from farm to another use (s. 4(17)), and impose stricter building code standards to meet environmental and energy code objectives (e.g. s. 7(2)). Calgary, but not Edmonton, can establish its own debt servicing policies, including a debt limit, run operating deficits for up to three years (s. 4(7)), and impose off-site infrastructure levies (s. 4(35)(1)). Both cities are required to establish climate change mitigation and adaptation plans (s. 4(30)). In 2024, the provincial government repealed several elements of the charters, including those allowing the municipality to impose additional inclusionary housing and building code requirements on developers, and limited the scope of off-site levies (Strasser 2023).

Proclaiming regulations that effectively rewrite general legislation as it applies to specific municipalities is an unorthodox approach that tests the limits of constitutionality. As Homersham (2018) notes, Canadian parliamentary committees and courts have cautioned against the use of regulation to modify primary legislation because regulations are not subject to parliamentary scrutiny and approval, and because subdelegating the authority to effectively amend provincial laws to municipal councils is offensive to parliamentary supremacy.[81]

Perhaps to address concerns about accountability, since the charters bypass the scrutiny they would have received had they been enacted as statutes by the legislature, the charter regulations provide for public scrutiny of bylaws made under their authority (s. 9(1)). However, bylaws made under section 4(4), the blanket authority clause described above, are exempted from the public hearing requirement (s. 9(2)).

80 *Traffic Safety Act*, RSA 2000, c-T-6. https://canlii.ca/t/5696w

81 Such regulations are called "Henry VIII clauses"; essentially, the king undermined Parliament in the 16th century by pressuring it to delegate to him the power to rewrite legislation by proclamation.

Although the charter regulations remain in effect, Alberta's *Fiscal Measures and Taxation Act*, 2019 (Bill 20)[82] repealed and replaced the *City Charters Fiscal Framework Act*, 2018,[83] which legislated fiscal arrangements that accompanied their creation. It remains to be seen whether the provincial government will choose to alter or rescind the charter regulations themselves.

6.3 Conclusions

Two general conclusions emerge from the brief examination of the stand-alone, special act charters in Vancouver, Winnipeg, Toronto, Halifax, St. John's, Mount Pearl, and Corner Brook. First, the separate legal establishment of large cities has not necessarily conferred significant additional powers on them. "Charter" cities do not do fundamentally different things from municipalities that fall under general municipal legislation. Even if the laws differ in their legal construction and organization (as with the *Vancouver Charter*), the grant of authority and scope of jurisdiction are broadly similar. While there is variation in access to specific and mostly minor tax fields, the property tax and user fees remain the primary sources of municipal revenue. Second, a long-term trend toward legal harmonization is evident, as many or all of the additional powers eventually find their way into general municipal legislation, although the Vancouver charter and Newfoundland and Labrador city charters are in some ways less "modern" than more recently revised general legislation in those provinces. Time will tell whether Newfoundland and Labrador will update the city charters to bring their provisions in line with the *Towns and Local Service Districts Act,* 2023.

Both these conclusions call into question the substantive (as opposed to symbolic) purpose of detaching particular cities from the general municipal law in the first place, thereby adding complexity to an already complex body of law. Many, if not most, of the provisions in the general municipal law are generally applicable and therefore mirrored in special act charters. This complexity increases the burden on the legislature, which must maintain two parallel bodies of functionally similar law, including their dependencies on and cross-references to other legislation.

In the layering model, we find that Québec's special laws and the Alberta city charter regulations are functionally equivalent insofar as they layer additional authority on top of an established general statute. Both tailor the legal frameworks governing specific municipalities while retaining the consistency of a province-wide general law.

Nevertheless, the political and symbolic effects of separate legal arrangements for large cities should not be underestimated. They may encourage provincial forbearance in relation to charter cities and spur more aggressive and innovative local political leadership. Nevertheless, provincial legislatures remain constitutionally unfettered in their ability to unilaterally amend charters and make regulations. In this sense, these asymmetrical legal arrangements are no different from parallel general municipal laws. Bespoke charter city arrangements should not be conflated with "home rule" (see Box 4.1).

7. Trends, Implications, and Knowledge Gaps

Canadian municipal law is often criticized for being static, yet it has been evolving for decades in significant ways. Much has changed in recent years, and the extent and pace of change is increasing. Where once the restrictive 1849 *Baldwin Act* was the template for general municipal law across Canada

82 *Fiscal Measures and Taxation Act*, 2020, SA 2020, c3. https://canlii.ca/t/549pz
83 *City Charters Fiscal Framework Act*, SA 2018, s C-13-3. https://canlii.ca/t/53rf7

(with historical exceptions in the Maritime provinces and Newfoundland and Labrador, which joined Canada in 1949), Alberta initiated a national wave of legal reform starting in the 1990s. Several patterns and trends are evident:

First, provinces and territories increasingly recognize municipalities as accountable, democratic governments in law. Legal frameworks across the country now recognize municipalities as "responsible and accountable" governments and articulate democratic self-government in the public interest as a basic purpose of municipal corporations. British Columbia (*Community Charter*, s. 1(1)) and Nova Scotia (*Municipal Government Act*, preamble) go so far as to recognize municipalities as an "order of government," a term usually reserved to the federal and provincial governments, and sometimes Indigenous governments established through treaties. Some governments have legislated frameworks governing provincial-municipal collaboration or established a duty for the government to consult municipalities on changes that would affect them. These provisions indicate an important shift, one that is both symbolic and practical. Imagining municipalities as legitimate democratic governments as opposed to subordinate branch offices of provincial and territorial governments is a precondition for intergovernmental relations based on respectful collaboration.

Second, municipal grants of authority are increasingly expansive and permissive. While the pace of change has been uneven across the country, municipalities today, in all provinces and territories, operate within a more permissive enabling legal framework than they did in the 1980s. All provinces and territories have shifted from a restrictive, express powers framework that narrowly construed municipalities as deliverers of services to property to one that grants permissive authority through the general welfare power, broad spheres of jurisdiction, and, in most jurisdictions, natural person power. These changes have significantly broadened the scope of municipal action and discretion, potentially unlocking new capacities for policy innovation.

Third, the courts have increasingly demonstrated a generous interpretation of municipalities' permissive authority. While sustaining the constitutional construction of municipalities as "creatures of the provinces," the judicial interpretation of local bylaws has become more generous and deferential since the dissent by Justice McLachlin in the Supreme Court of Canada's 1994 *Shell Canada Products* decision, in which she stated that "Courts should not be quick to substitute their views for those of elected council members on what will best serve the welfare of the city's citizens." This has been supported by the insertion of "broad interpretation" clauses into legislation.

Fourth, the governance landscape is becoming increasingly complex, the costs and benefits of which are unclear. Building on the precedent established by the 1849 *Baldwin Act*, under which municipalities draw their authority from general legislation, the municipal system within, and even between, provinces and territories, developed with a high degree of symmetry (Taylor 2019, 47–51). Since the 1990s, however, some provinces have moved to create special "city charters," or what we characterize as asymmetrical arrangements for large cities. While the legal instruments differ, Calgary, Edmonton, Toronto, and Halifax have joined Vancouver, Winnipeg, Montréal and other urban municipalities in deriving some or all of their authority from statutes or regulations distinct from those applying to other municipalities within the same province.

We note two tendencies, one pointing toward greater symmetry, the other in the opposite direction. In Ontario, many of the distinctive provisions in the *City of Toronto Act* were later mirrored in the general *Municipal Act* – changes that may undermine the rationale for creating the *Toronto Charter* in the first place. On the other hand, British Columbia's passage of a new *Local Government Act* and *Community Charter* in the late 1990s and early 2000s did not lead to a revamp of the *Vancouver Charter*. Whether Newfoundland and Labrador's recent replacement of the *Municipalities Act* with the new *Towns and Local Service Districts Act* leads to updates of the Saint John's, Mount Pearl, and Corner Brook

charters remains to be seen. Alberta and Ontario have used regulation to alter the powers of select municipalities – comprehensively for Calgary and Edmonton and selectively for a list of "strong mayor" municipalities across Ontario. Beyond symbolic recognition of the economic importance of Canada's big cities, the substantive impacts of these deviations from general legal frameworks on policy process and outcomes remain to be seen (Kitchen 2016; Sancton 2016).

Fifth, the trend toward municipal empowerment co-exists with provincial intervention. At the start of this paper we noted an inescapable feature of intergovernmental relations: the push-and-pull between centralizing and decentralizing tendencies. With one hand, provincial and territorial governments across Canada have overhauled municipal legislation to recognize and empower municipalities as accountable democratic governments. With the other, they have on various occasions unilaterally restructured local government boundaries and internal structures; overridden adopted local policies; compelled municipalities to perform actions they would not otherwise have done; and imposed uniform standards and procedures rather than permitting local discretion. Sometimes these impositions have been ad hoc and seemingly politically motivated; at other times they have been designed to achieve larger policy objectives. They have very often been resented and opposed by local politicians and residents, although there is very little they can do given the exclusive responsibility for municipal affairs granted to provinces and territories within the federal division of powers. Nevertheless, we argue that arbitrary and politically motivated actions remain high-profile exceptions, not the rule. The 40-year trend toward expanded and more permissive municipal legal authority is real, comprehensively reshaping the day-to-day activities of local governments, even if its effects are not fully visible or appreciated.

Finally, fiscal innovation has lagged legal innovation. Legal authority is not much use without commensurate resources and capacities. While the fiscal imbalance has not been the focus of this paper, we note that the broad transformation in local government law we have described has not been accompanied by equally far-reaching changes in municipal access to own-source revenues. Few municipalities have access to revenues beyond the traditional menu of property taxes, user fees, and penalties for operating purposes, and borrowing and development exactions for capital purposes. Long-running debates surrounding the adequacy and diversification of revenue sources, municipal discretion over tax rates and spending, the size and conditionality of intergovernmental transfers, and "who does what," cannot be summarized here. Nevertheless, most would likely agree that the innovation that has characterized the transformation of municipal law should be matched by innovative fiscal reform.

These trends point to a fertile research agenda.

Importantly, we do not yet know the outer limits of municipal authority. This is true for two reasons. First, few municipalities have tested the limits of their authority by making aggressive use of the most expansive elements of the modernized municipal frameworks, namely the broad and permissive grant of authority, broad spheres of jurisdiction, and, potentially, natural person powers. Justifiably cautious as they seek to avoid the costs of failure, local decision makers have largely stuck to the tried and true and stayed within their comfort zone when it comes to matters of regulatory innovation and intervening in new policy areas. Second, these powers are rarely tested in the courts, meaning that only a modest body of jurisprudence has emerged to define their limits.

There is certainly room for more creative use of the general welfare power. In the 2019 *Canadian Plastic Bag Association* case, the B.C. Court of Appeal (BCCA) quashed a bylaw passed by the City of Victoria because it was not approved in advance by the provincial Minister of the Environment. In essence, the BCCA decided that the bylaw's purpose was "the protection of the natural environment," which required ministerial approval prior to enactment under section 8(3)(j) of the *Community*

Charter. Unfortunately for Victoria, the bylaw text did not reference its statutory basis and the City's legal counsel did not make such arguments before the Court. Would the case have been decided differently if the bylaw had been grounded in one or more of the broad "municipal purposes" listed in section 7?[84] We can imagine test cases in which municipalities explore the limits of the permissive authority granted by the general welfare power, natural person power, and broadly framed spheres of jurisdiction.

To better understand the scope of municipal powers, we propose four research programs:

1. **Municipal survey on legal constraints.** This overview shows that municipal law is both enabling and constraining, and has become more permissive over time. What we do not fully understand, however, is exactly how constraints are experienced in everyday municipal governance. We recommend a survey of all Canadian municipalities, large and small and in all provinces and territories, to identify what specific legislative provisions (as opposed to fiscal limitations) prevent them from accomplishing important objectives. The results of such a survey would direct reform advocacy toward matters of everyday significance.
2. **Case studies of municipal innovation using modern legal tools.** Municipalities have more expansive powers than ever before, yet we know little about how they are being used. We propose a research program to discover how municipalities are working at the limits of their legal authority to respond to pressing policy problems and pursue specific policy objectives. In particular, we recommend focusing attention on bylaws and undertakings adopted on the basis of the general welfare power, broad grants of authority, and the natural person power.
3. **Monitoring litigation and judicial interpretation.** The meaning of statutes is fleshed out through legal challenges and judicial interpretations. We recommend the ongoing monitoring of court challenges to boundary-pushing municipal initiatives. Again, a key focus should be on initiatives grounded in the general welfare power, the grant of authority, and the natural person power. This would not only reveal how the courts are interpreting the expanded powers and grants of authority in reformed municipal laws; it would also provide municipalities with insights on how to frame such bylaws.
4. **De-risk test cases.** As noted, municipalities recognize that inviting judicial review by testing the boundaries of their powers is potentially costly, not only in fiscal terms, but also in terms of policy reversal. The Federation of Canadian Municipalities (n.d.) maintains a Legal Defense Fund that allows it to intervene in cases appealed to federal courts that are likely to set national precedents. There is potential to go further in this direction by proactively identifying and supporting municipalities willing to invite serving as "test cases" of the novel use of municipal powers. "De-risking" municipal policy action would incentivize local innovation and better establish the outer limits of municipal powers.

84 Section 8(1) of the *Community Charter* provides that ministerial pre-approval does *not* apply to actions taken under the natural person power. The Supreme Court of Canada declined to hear an appeal of this decision.

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