

HALIFAX

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Item No. 2
Halifax Regional Council
June 9, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by



Jacques Dubé, Chief Administrative Officer

DATE: April 2, 2020

SUBJECT: Legislative Requests Update – Fall 2019 and Spring 2020

INFORMATION REPORT

ORIGIN

Spring 2020 and Fall 2019 sitting of the Provincial Legislature.

LEGISLATIVE AUTHORITY

The relevant statutes for each legislative request are outline in the attached legislative amendments tracking sheet.

BACKGROUND

The spring sitting of the Nova Scotia Legislature commenced on February 20, 2020 and adjourned on March 10, 2020. During the 2020 spring session, one piece of legislation was passed which directly impacts HRM:

- Bill No. 230 MGA/HRM Charter – Requirement for Ministerial Approval.

The 2019 fall sitting of the Legislature debated four Bills that impact HRM:

- Bill No. 201 MGA/HRM Charter – On-Site Sewage Disposal Equipment;
- Bill No. 191 *Municipal Elections Act/MGA/HRM Charter* - Candidacy of Municipal Elected Officials (*currently at the Law Amendments Committee*);
- Bill No. 192 *Municipal Elections Act* – Board & Committee Member Candidacy; and
- Bill No. 152 *Plastic Bags Reduction Act*.

The impacts of these legislative changes are discussed below, as well as updates on outstanding legislative requests from Council.

HRM has thirteen active legislative requests with the Province for consideration, as well as seven inactive requests, which are outlined in the legislative amendments tracking sheet (Attachment A). None of HRM's active requests were directly addressed in the Government's legislative agenda for the fall or spring sitting.

DISCUSSION

2020 Spring Sitting: Nova Scotia Legislature

Bill No. 230 MGA/HRM Charter – Requirement for Ministerial Approval

Bill No. 230 introduces amendments to the *Municipal Government Act* (MGA) and *Halifax Regional Municipality Charter* (HRM Charter) that remove the requirement that municipalities receive approval from the Minister of Municipal Affairs and Housing when entering into a lease, lease-purchase or other agreement over a certain dollar threshold. The amendments specific to the HRM Charter repeal subsections 111(5) and (6), which require that HRM receive ministerial approval for lease and lease-purchase agreements where the total commitment exceeds \$500,000. These subsections are substituted with the following:

- (5) The Municipality may enter into a lease, lease-purchase or other commitment to pay money over a period extending beyond the end of the current fiscal year.

This HRM Charter amendment is largely administrative in nature and was not in response to a formal legislative request from HRM. However, these changes reduce red tape by eliminating a procedural step for entering into lease agreements while also clarifying HRM's authority in this regard.

Bill No. 230 link: https://nslegislature.ca/legc/bills/63rd_2nd/1st_read/b230.htm

2019 Fall Sitting: Nova Scotia Legislature

Bill No. 201 MGA/HRM Charter – On-Site Sewage Disposal Equipment

Bill No. 201 introduces amendments to the MGA and HRM Charter that enable municipal councils to enact by-laws which permit municipalities to offer financing options to residential property owners for the installation of on-site sewage/septic systems on private properties. The relevant subsection of the HRM Charter is 104A(1), which now reads as follows (the amended portion in *italics*):

The Council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation of any of the following on private property with the consent of the property owner:

- (a) equipment installed in respect of a district energy system within the Cogswell District Energy Boundary;
- (b) energy-efficiency equipment;
- (c) renewable energy equipment;
- (d) equipment for the supply, use, storage or conservation of water; and
- (e) *on-site sewage disposal equipment.*

Through this provision, HRM has been able to offer incentives to home owners to choose clean energy options, with a notable example being HRM's Solar City program. With this amendment, municipalities are now able to extend this financing model to on-site sewage disposal equipment.

This legislative change was not in response to a formal request from HRM, nor were HRM staff consulted during the development of this amendment. The Province currently administers the on-site sewage disposal

program through the Department of Environment. The Province has not provided clarity as to why it chose to enable municipalities to provide this financing rather than doing so itself.

On November 26, 2019, Council provided direction to the CAO to prepare a report exploring options for the Municipality to assist property owners with financing for replacing or upgrading on-site septic/sewage disposal equipment. On February 25, 2020, further direction was provided to combine this report with a request to expand the criteria for lending under By-law C-1000 Respecting Charges for the Resolution of Inadequate Water Supply, to include water filtration, purification and system conditioning. The report is slated to return to Council in 2020.

Bill No. 201 link: <https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-63-session-2/bill-201>

Bill No. 191 - Municipal Elections Act/MGA/HRM Charter - Candidacy of Municipal Elected Officials

Bill No. 191 introduces proposed amendments to the *Municipal Elections Act* (MEA), MGA, and HRM Charter, which would require councils to develop and adopt a policy concerning elected municipal officials running for elected office at either the provincial or federal level. These policies would outline measures to address potential conflicts between a councillor running as a candidate and their duties as a municipal councillor/elected official. While councils are provided some discretion in developing these policies, the proposed amendments would require that they address the following:

- Whether a councillor is required to take a leave, resign, or neither;
- Whether a councillor can continue to serve as a councillor while a candidate;
- What duties they may not undertake as a candidate;
- Whether any required leave of absence would be with or without pay; and
- The use of discretionary funds while a candidate.

Unlike the other bills included in this report, Bill No. 191 has not yet passed. It received second reading on October 5, 2019 and has since been held up at the Law Amendments Committee. Due to concerns from municipalities regarding consultation during the development of these amendments, the Province has agreed to engage with stakeholders prior to moving further with the proposed amendments. At the time of writing, the Department of Municipal Affairs and Housing (DMAH) is working with the Nova Scotia Federation of Municipalities (NSFM) to review these legislative changes. The Province has indicated that it is advocating for consistency in the approach taken by municipalities, while NSFM is supportive of a policy framework that would require a leave of absence rather than a requirement to resign.

It is unclear whether Bill No. 191 will be brought forward for the 2020 fall sitting of the Legislature.

Bill No. 191 link: <https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-63-session-2/bill-191>

Bill No. 192 - Municipal Elections Act – Board & Committee Member Candidacy

Bill No. 192 introduces several amendments to the MEA which seek to promote greater transparency in the electoral process and make it easier for residents to vote in municipal elections. These changes include:

- Allowing residents to vote in advance at central polling stations outside their electoral district;
- Providing returning officers with the authority to extend polling hours until midnight in the event of an emergency where a substantial number of electors will not be able to vote on election day;
- Changing the deadline for candidates to file nomination papers with returning officers from 5 business days to 7 business days before nomination day;
- Increasing the maximum number of electors for each polling station from 700 to 1,000; and
- The addition of provisions which clarify that residents or volunteer members appointed to municipal

boards and committees are not required to take a leave of absence to be nominated and serve in a municipal election.

These amendments were a result of the recommendations put forward by the Municipal Elections Act Review Committee (MERAC). The Committee was made up of election officials from across the province and included the Municipal Clerk for HRM.

HRM has one outstanding legislative request relating to the MEA which was not addressed in these amendments: the 2014 request to amend the MEA to include permanent residents as qualified electors for municipal and school board elections. The Province has previously indicated that it views the ability to vote as inseparable from the ability to nominate candidates and run in elections. As a result, MERAC did not recommend amendments to the MEA to allow permanent residents to vote, nominate, and run. The Committee noted that there may not be widespread interest from all municipalities and suggested that this change would require significant revisions to the MEA, including changes to the voter identification requirements and electoral processes. This requested amendment will remain on HRM's list.

Bill No. 192 link: <https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-63-session-2/bill-192>

Bill No. 152 - Plastic Bags Reduction Act

Bill No. 152, or the *Plastic Bags Reduction Act*, introduces a general prohibition on the use of single-use plastic bags by businesses in the Province, with a limited list of exceptions provided. The stated objective of the Act is to reduce the waste created by single-use plastic. The Act creates a summary conviction offence for non-compliance, with the Department of Environment being delegated the responsibility of overseeing enforcement.

Prior to Bill No. 152, Regional Council had been advocating for provincial action to reduce the use of single-use plastics throughout the Province. In the absence of such action, in January 2019 Council provided direction to the CAO to prepare a by-law for the reduction of single-use plastic bags. However, with the Province's decision to move forward with the *Plastic Bags Reduction Act*, this work became redundant. As a result, Council passed a motion to rescind in November 2019 and the work on the draft by-law ceased.

The new Act is scheduled to come into effect on October 30, 2020. HRM staff continue to closely monitor issues related to single-use plastics as government and private-sector policies, as well as public attitudes towards single-use plastics, continue to evolve.

Bill No.152 link: <https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-63-session-2/bill-152>

Legislative Request Updates

None of HRM's thirteen active legislative requests were directly addressed in the Government's legislative agenda for the Fall 2019 or Spring 2020 sittings. However, HRM staff continue to meet regularly with the DMAH and other provincial departments to discuss Council's outstanding legislative requests and to consult on regulations. Below is an update on some of this activity.

Tourist Accommodations Registration Act Regulations & Assessment Act Regulations

In April 2019, the Province passed Bill No. 101, the *Tourist Accommodations Registration Act* (TARA), to replace the *Tourism Accommodations Act* which had regulated licensed tourist accommodations. TARA requires short-term accommodations providers, except those who rent in their primary residence, to register through an online system. The Province also amended the *Assessment Act* (Bill No. 99) so that owner-occupied short-term rentals and single-unit residential properties will be assessed residentially for tax purposes, regardless of their short-term rental activity.

The Province has since engaged with municipal partners to develop regulations that define a small-scale tourist accommodation establishment, including the maximum number of rooms. A working group of HRM staff coordinated the municipality's input into the provincial regulations while informing the development of HRM's proposed approach to regulating short and long-term rentals.

The registration system under TARA was launched in April 2020. The TARA Regulations came into effect on April 1, 2020. The regulations stipulate who must register, the information that must be provided, annual registration fees, conditions under which registration may be suspended or cancelled, conditions under which a registrant's information may be disclosed, and additional penalties. Annual fees are \$500 for platform operators, \$50 for a host with 1-4 bedrooms available for short-term rental, and \$150 for a host with five or more bedrooms available for short-term rental. Those in non-compliance with the Act face a maximum annual penalty of \$7,500.

The regulations for the *Assessment Act* related to short term rentals were finalized and released by the Province in May 2020. According to the regulations, primary-residence properties offering four rooms or fewer as short-term rentals will be assessed as residential. A link to the regulations is as follows: <https://www.novascotia.ca/just/regulations/rq2/2020/RG2-2020-05-08.pdf>

While Council has not yet directed if/how to regulate short-term rentals, the regulation of short-term rentals will likely require further municipal-provincial collaboration to avoid risks of adding more regulatory burden to business and government. In accordance with the direction provided by the Community Planning and Economic Development Standing Committee in May 2019, staff are exploring options for municipal regulations for Council's consideration.

Code of Conduct for Elected Municipal Officials

In Fall 2017, the Legislature passed amendments to the HRM Charter and MGA relating to codes of conduct for elected municipal officials. Among other changes, the amendments impose a new requirement that all municipalities adopt a code of conduct, require that codes include mandatory minimum code provisions, and expand the regulation-making power of the Minister of Municipal Affairs and Housing as it relates to prescribing additional requirements for minimum code content. The amendments relating specifically to codes of conduct have not yet been proclaimed and are on hold until the regulations are developed.

The Province has indicated that they are planning to hold consultations with municipalities to gather input on the development of these regulations. The consultations were initially planned for Spring 2020 but have been delayed due to the Covid-19 pandemic.

Council's outstanding 2016 request for HRM Charter amendments for increased sanctioning powers for code has not yet been addressed. HRM staff will bring Council's request for increased sanctioning powers forward during any future code of conduct consultations with the Province.

Inclusionary Zoning

Since 2016, the Municipality has requested HRM Charter amendments for inclusionary zoning powers which would provide HRM with the authority to require that new developments include a specified number of affordable units. Inclusionary zoning has been enabled in many jurisdictions within the United States for decades and, more recently, in British Columbia, Manitoba, Ontario and Quebec.

Although inclusionary zoning was not included on the legislative agenda for the 2020 spring sitting, the Province has indicated that it intends to undertake stakeholder consultations on the matter in 2020. However, it is unclear how this timeline will be impacted by the Covid-19 pandemic. Due to the varying needs of municipalities throughout the province, it is possible that inclusionary zoning may be an amendment specific to the HRM Charter but not the MGA.

Traffic Safety Act Regulations

The new *Traffic Safety Act* (TSA) was passed in Fall 2018 and will replace the *Motor Vehicle Act* once it comes into effect. The legislation will not be proclaimed until the Regulations are prepared. HRM has a number of outstanding legislative requests related to the MVA. The new TSA appears to address at least two of these outstanding requests:

- Dooring – Council has requested an amendment to prohibit people from opening vehicle doors until safe to do so. The TSA is silent on dooring but provides municipalities powers to deal with collisions between vehicles and pedestrians and other “conveyances.”
- Bicycle traffic signals and crossrides – Council has requested legislative changes to enable the use of traffic signals for bicycles and crossrides (crosswalks for bikes in bike lanes). The TSA does not mention bike traffic signals and crossrides specifically. However, it gives municipalities the power to place traffic control signals that are not official traffic signs or official traffic signal on roads under municipal authority.

The Province has been conducting broad-scale engagement with municipalities and other stakeholders to gather input into the TSA Regulations. The Department of Transportation and Infrastructure Renewal has also facilitated direct consultation sessions with HRM staff in early 2019 to review specific regulatory issues and legislative requirements that are needed to implement HRM's transportation plans and priorities.

In early 2020, a ‘Regulatory Priorities Table’ was formed through the Joint Project for Regulatory Modernization to help facilitate a regulatory solution that considers red-tape reduction for business and explore intergovernmental opportunities. This table brings together senior level decision-makers from both orders of government to better align regulatory priorities and facilitate a more effective decision-making process in specific areas, such as the development of the TSA Regulations.

The priorities highlighted by HRM during these engagements include bicycle traffic signals and the need for greater collaboration with municipal partners before decisions are made that will impact local government. Staff will continue to participate in the Regulatory Priorities Table and facilitate engagement with Transportation and Infrastructure Renewal to discuss the TSA Regulations and emphasize HRM's immediate and longer-term operational and strategic transportation priorities and regulatory requirements.

Due to the complexity of the new rules, it is expected that this process will be completed by the Province in phases and will continue into 2021. Due to the impacts of the Covid-19 pandemic, the Province's original anticipated Fall 2020 adoption for Phase I of the regulations could be delayed.

FINANCIAL IMPLICATIONS

There are no financial implications as a direct result of the material in this report.

RISK CONSIDERATION

The risks directly associated with the information in this report are rated low.

ATTACHMENTS

Attachment A: Legislative Requests Tracking Sheet - April 2020

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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Halifax Regional Council Legislative Amendment Requests
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Active Requests

Number	Request Year	Particulars of Request
1.	2015	<p><u>Crosswalk Penalties - Motor Vehicle Act/Traffic Safety Act</u></p> <p>Request for Province to consider increasing non-monetary penalties for crosswalk violations.</p>
2.	2016	<p><u>Barrington South Heritage District Potential Development Suspension – Heritage Property Act</u></p> <p>Request that the Province amend the <i>Heritage Property Act</i> and Heritage Conservation Districts regulations, where appropriate, to authorize the Council to adopt a by-law that would suspend specific types of development, for a period not exceeding one (1) year, within the boundaries of an area that council has identified as part of a background study to establish a Heritage Conservation District.</p> <p>The by-law shall identify and restrict inappropriate development activity for the period in which it is in effect. Another by-law, under this provision, cannot be established, in an area which was previously subject to such a by-law, for a period of three years once the by-law ceases to be in effect.</p>
3.	2016	<p><u>Sanctions for Code of Conduct Breaches – Halifax Regional Municipality Charter</u></p> <p>Request to initiate legislative changes to the <i>Halifax Regional Municipality Charter</i> allowing for the ability to censure Members of Council by remitting remuneration for violations to AO 52, Code of Conduct for Municipal Officials.</p>
4.	2016	<p><u>Inclusionary Zoning – Halifax Regional Municipality Charter</u></p> <p>Request that the Province amend the <i>Halifax Regional Municipality Charter</i> to enable Council to implement inclusionary housing for all or part of the Municipality.</p>
5.	2017 2019	<p><u>Parking Fines - Summary Offence Ticket Regulations</u></p> <p>Request the Province amend the Summary Offence Ticket Regulations to increase parking fines for “other” parking types only; not inclusive parking meter violations, as outlined in Option 1, Attachment D (Appendix A) of the staff report dated February 10, 2017, with the following amendment:</p>

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		<p>The requested increase to the fine amounts be amended so:</p> <ul style="list-style-type: none"> (a) all Category A (parking) offences are increased from \$25.00 to \$50.00 (rather than \$45.00 as recommended by Committee of the Whole); (b) all Category B (parking) offences are increased from \$50.00 to \$100.00; and (c) all Category C (parking) offences are increased from \$100.00 to \$200.00 rather than \$150.00.
6.	<u>2017</u>	<p><u>Dooring – Motor Vehicle Act/Traffic Safety Act</u> *May be enabled under new TSA</p> <p>Request to amend the <i>Motor Vehicle Act</i> to prohibit people from opening their vehicle doors until it is reasonably safe to do so.</p>
7.	<u>2017</u>	<p><u>Bicycle Traffic Signals and Crossrides - Motor Vehicle Act/Traffic Safety Act</u> *May be enabled under new TSA</p> <p>Request that the use of bicycle traffic signals and cross-rides be enabled in the next revision of the <i>Motor Vehicle Act</i>; and;</p> <p>that the Minister of Transportation and Infrastructure Renewal introduce a Regulation under Section 307 of the <i>Motor Vehicle Act</i> to permit Halifax Regional Municipality to conduct a project of not greater than five years to test and evaluate bicycle traffic signals and cross-rides at various locations in the municipality.</p>
8.	<u>2018</u>	<p><u>Green Network Plan – Halifax Regional Municipality Charter</u></p> <p>Request that the Province amend the <i>Halifax Regional Municipality Charter</i>, as set out in Actions 18 and 61 of the Halifax Green Network Plan, to:</p> <ul style="list-style-type: none"> (a) enable the Municipality to acquire sensitive environmental lands (e.g. riparian areas, wetlands, steep slopes, etc.) as an environmental reserve through the land development and subdivision process, in addition to existing parkland dedication provisions; and (b) enable a greater range of legislative abilities, such as the ability to enact parkland dedication requirements based on density to address development that does not include the subdivision of land.
9.	<u>2018</u>	<p><u>Lobbyist Registry – Halifax Regional Municipality Charter/Lobbyist Registration Act</u></p> <p>Request staff engage with the Province regarding the possibility of an amendment to the <i>Halifax Regional Municipality Charter</i> to expand the provincial <i>Lobbyist Registration Act</i> to include regulation</p>

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		of lobbying conducted at the local government level.
10.	<u>2019</u>	<p><u>Accessible Taxi Incentives – Halifax Regional Municipality Charter</u></p> <p>Request that the Province amend the <i>Halifax Regional Municipality Charter</i> to enable the Municipality to provide business grants for vehicle purchase or conversion and to provide a subsidy, per trip fee, to all accessible taxi license holders.</p>
11.	<u>2019</u>	<p><u>Tourism Accommodation Registry Act & Commercial Assessment Act Regulations</u></p> <p>Requests to better align efforts to regulate short-term-rentals. Under the <i>Amended Assessment Act Regulations</i>, request:</p> <ul style="list-style-type: none"> • That the Property Valuation Services Corporation be provided with the authority to capture commercial activity in non-owner-occupied residential properties and determine used of units through surveys. • That the definition of “small-scale residential tourist accommodation establishments” be defined in a way to prevent: <ul style="list-style-type: none"> • Large-scale tourist accommodations converting a small number of existing rooms into long-term accommodations to receive a residential tax assessment; and • Non-owner-occupies multi-unit residential properties converting into short-term tourist accommodations and remaining assessed as residential. <p>Under the <i>Tourism Accommodations Registry Act Regulations</i>, request:</p> <ul style="list-style-type: none"> • That the <i>Tourism Accommodations Registry Act</i> be amended to require that all forms of short-term-rentals, including primary residences, be registered; • That short-term-rentals in primary residences be defined narrowly to ensure that short-term-rentals within secondary and backyard suites are registered; and • That the province and HRM coordinate registration system and avoid the need for users to register through multiple platforms.
12.	<u>2019</u>	<p><u>Halifax Common Aquatic Area Development – Halifax Regional Municipality Charter</u></p> <p>Request an amendment to the <i>Halifax Regional Municipality Charter</i> to authorize the Municipality to erect a permanent building and associated fencing on the Central Common to support the redevelopment of the Halifax Common aquatic area. Such an amendment would be similar to the amendment that was approved in the legislature on December 6, 2012 adding section 66A, permitting the Municipality to erect a building on the North Common. The proposed new amendment would enable the Municipality to vastly improve the</p>

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		quality of the aquatic
13.	<u>2020</u>	<p><u>Transportation Network Company Fees - Motor Vehicle Act</u> Request that the Province amend the <i>Motor Vehicle Act</i> to enable the Municipality to charge Transportation Network Companies (TNCs) per-trip fees. This will enable the Municipality to generate additional revenues as part of the forthcoming regulation of TNCs like Uber and Lyft.</p>

Other/Inactive Requests

Number	Year Requested	Particulars of Request
1.	<u>2008</u>	<p><u>Heritage Property Act</u> Requesting sunset clause of 90 days for impact clerical errors have on heritage registration.</p>
2.	<u>2013</u>	<p><u>Halifax Regional Municipality Charter Review</u> In March 2013, Council directed staff to work towards undertaking a joint review of the <i>Halifax Regional Municipality Charter</i> with Municipal Affairs, to make it a more flexible and responsive document. The review will advocate for Powers of Peace, Order and Good Government (POGG powers) and Natural Person Powers (NPPs) - residual powers that would allow HRM to 1. Take the necessary steps to give effect to matters within its mandate and 2. do anything that an individual can do (like a corporation). Instead of sections in the law that say what HRM can do - a "laundry list" of allowable actions – NPPs would instead take a more permissive approach by letting HRM do anything that a person can do under the law and then setting limitations on that.</p>
3.	<u>2014</u>	<p><u>Permanent Resident Municipal Voting Rights – Municipal Elections Act</u> Include permanent residents as qualified electors to vote in municipal and school board elections in the <i>Halifax Regional Municipality Charter</i> and the <i>Municipal Elections Act</i>.</p>
4.	<u>2015</u> and 2013	<p><u>Commercial Tax Options – Halifax Regional Municipality Charter</u></p> <ol style="list-style-type: none"> 1) Request that the Province make changes to legislation governing the assessment process so

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		<p>that (a) the annual valuation is averaged over a three year period, or (b) the full assessment roll is updated every 3-4 years as is the current policy in Saskatchewan and Ontario.</p> <p>2) Request amendments to the <i>Halifax Regional Municipality Charter</i> that would provide Council with greater legislative authority in setting taxes and charges respecting the general tax rate and area rates for both residential and commercial properties.</p> <p>3) Request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment so it is based on 3 past years of assessment rather than one year. This would increase predictability in annual commercial tax bills by evening out increases.</p>
5.	<u>2017</u>	<p>Traffic Control Persons for Special Events – Motor Vehicle Act/Traffic Safety Act</p> <p>Request that the Government of Nova Scotia:</p> <ul style="list-style-type: none">• Amend the Nova Scotia <i>Motor Vehicle Act</i> to permit Traffic Control Persons to direct the movement of traffic for special events;• Modify the Province's training and accreditation processes to reflect special events-related roles for Traffic Control Persons and Temporary Workplace Signers; and• Revise the Province's TC Manual to include standards, principles and guidelines applicable to special events-related traffic control scenarios.
6.	<u>2017</u>	<p>Speed Limits in Residential Areas – Motor Vehicle Act/Traffic Safety Act</p> <p>Request that the Province of Nova Scotia reduce the speed limit in residential districts identified in section 101(2) of the <i>Motor Vehicle Act</i> to forty kilometres per hour (40 km/h).</p>