

MUNICIPAL ACT, 2001 PROCESS FOR MUNICIPAL RESTRUCTURING

Before it is given final approval by the municipal councils, municipal staff should provide to ministry staff the final draft of the municipal restructuring proposal, including the legal description of the lands to be annexed and any supporting materials, whenever possible. This helps to ensure appropriate form and content and may eliminate problems with completeness, interpretation, and compliance with O. Reg. 204/03 [Powers of the Minister or a Commission for the Implementation of a Restructuring Proposal] and O. Reg. 216/96 [Restructuring Proposals].

The *Municipal Act, 2001* (sections 171 to 173) sets out a process for locally developed proposals for municipal restructuring, including both annexations and amalgamations. The process includes the following steps:

- Municipalities develop a restructuring proposal describing details, such as new boundaries, effective date, council composition and transitional provisions.
- Before voting on a restructuring proposal, the councils of the municipalities must give notice and hold at least one public meeting. It is not unusual for all involved municipalities to hold a joint public meeting.
 - Public notice for the meetings is determined by each municipality according to its procedure by-laws. The meeting must be advertised in each municipality.
 - The draft restructuring proposal, the terms of any related local agreement, and clear identification of the lands to be annexed should be available to the public at the meeting.
- Municipalities are expected to consult with Indigenous communities to determine if the proposed changes might adversely affect Aboriginal or treaty rights (e.g. hunting or fishing) or Aboriginal interests. A simple letter of notification is not considered sufficient to make this determination.
 - Changes related to municipal restructuring that Indigenous communities might be interested in include the potential for future land development and related servicing decisions.
- Municipalities must meet prescribed support requirements before submitting a restructuring proposal to the Minister:
 - In areas with a two-tier municipal government, triple majority support is required: support by the upper-tier, and a majority of councils representing a majority of electors of the affected municipalities. Councils of any separated municipality included in the proposal must also give their consent (see O. Reg. 216/96).
 - In areas without an upper-tier government, the prescribed level of support is a double majority. This means a majority of the local municipalities and local bodies in unorganized territories affected by the proposal, representing a majority of the electors (see O. Reg. 216/96).

A locally developed restructuring proposal is implemented through a Minister's order, at the Minister's discretion (for more detail on the powers of the Minister, see O. Reg. 204/03). Any proposed development on the lands to be annexed would have to comply with the requirements of the *Planning Act*.

Municipalities that have been created or restructured through special legislation (i.e. Toronto, Hamilton, Ottawa, Greater Sudbury, Haldimand County, Norfolk County or regional municipalities) may use the *Municipal Act, 2001* process only for minor restructuring proposals (e.g. boundary adjustments).