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<p>THE ANNOTATED MUNICIPAL ACT Second Edition Auerback and Mascarin Release No. 1, January 2025</p>

The Annotated Municipal Act, Second Edition, helps you navigate this complex piece of legislation and is your single most important resource in municipal law. This publication includes analysis of each section of the Ontario *Municipal Act, 2001* and includes a concordance to the former Act.

This release features updates to the case law and commentary in Part III. Specific Municipal Powers, Part VI. Practices and Procedures Municipal Organization and Administration, and Part XIV. Enforcement, Part XV Municipal Liability.

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Highlights

Municipal Act, 2001—Application to quash by-law—Illegality—The applicant in *Mills v. Corporation of the City of Calgary*, 2024 CarswellAlta 1112 (Alta. K.B.) enjoyed entertaining groups of friends and like-minded persons from the ethically non-monogamous community in his home, which was located in a suburban residential neighbourhood. The applicant did this, in part, through a social club with a website which invited members to join online in order to be able to purchase tickets to the applicant's gatherings. Tickets were sold for a small sum. The applicant did not run these events for profit. Public complaints resulted in the applicant's activities attracting the attention of municipal regulators. The city issued a stop order on the basis that the applicant was engaging in a non-permitted use of his property for "social organization", which was a term defined in the city's land use by-law. The applicant challenged the constitutionality of the by-law on several grounds. The court also ruled that section 646(1) of the *Municipal Government Act* was compliant with the constitutional standards of privacy protection concerning private dwellings. The section permitted entry in accordance with s. 542 of the Act, which required that an enforcement officer give reasonable notice of their desire to enter property and reasons for that entry, and further instituted a qualifier providing that non-consensual entry is only to be made in an emergency.

Municipal Act, 2001—Immunity—Liability for Torts—The plaintiffs in *Hill v. Herd*, 2024 BCSC 797, 2024 CarswellBC 1363 (B.C. S.C.), additional reasons 2024 CarswellBC 2643 (B.C. S.C.), additional reasons 2024 CarswellBC 2643 (B.C. S.C.) complained of noise and light pollution, and gas fumes emanating from a gas station located across from the village's alley behind their home. The operation of the gas station preceded the plaintiffs' purchase of their home, but the complaints related to the 2018 construction of an above-ground tank nest near the alley and the delivery of fuel, thereto, from the alley. The village issued business licences to the gas station annually, and the region administered aspects of the village's building by-law pursuant to a services agreement between the two local governments. The plaintiffs brought an action in nuisance against the village alleging that the two local governments acted unlawfully in permitting the 2018 renovations to occur. The action was dismissed. Non-compliance with the regulatory requirements, such as the placement of fuel tanks in breach of the Fire Code, the Building Code, and other by-laws, as alleged by the plaintiffs, would not independently create a nuisance. The village did not make any use of the operators' land, which was where light nuisance emanated from; the village could not be liable in nuisance for interference caused by the lights. The village owned the alley where the fumes and noise nuisances emanated from, but its involvement was purely regulatory. The village did not make any use of the alley; rather, it permitted others to use the alley to deliver fuel and that did not make the village a proper defendant in nuisance.