

Municipal Government Act

Consultation Workbook

Alberta 

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Chapter 1: MGA Review

An introduction



The *Municipal Government Act* (MGA) affects the daily lives of all Albertans. It helps define how our municipalities look and function, the types of services they provide and how they pay for those services

In other words, it is the guide to how Alberta municipalities operate.

We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA. **We invite you to use this workbook to provide your insights into how we can improve the MGA.** Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

The full MGA Review Workbook is also online at mgareview.alberta.ca/workbook. There are online surveys for each workbook chapter, and you are invited to complete as many of them as you would like by **April 30, 2014**.

Working together to build strong communities

As a province, Alberta is growing. We have some of the best communities in the world, attracting people to our province to live and work.

It's our quality of life that distinguishes Alberta and brings people to our province. As Alberta and its municipalities continue to grow, we need to continue building strong communities for the future.

That's why we are undertaking a review of the MGA.

Over the past 18 years, the MGA has been amended in response to new trends and issues faced by Alberta’s municipalities, but this is the first comprehensive review of the legislation since 1995. It is vital that the MGA, a living document, remains responsive to the needs of municipalities today and in the future. This is our opportunity to modernize the MGA so that it can continue to help build strong, prosperous and sustainable communities throughout Alberta.

What is being reviewed?

The MGA has three main themes, or areas of focus. We invite your feedback on all three areas:



What is not being reviewed?

While the MGA review includes all parts of the legislation, some aspects of municipal life are not part of the legislation and are not part of the review. These include:

- Local bylaws
- Municipal budgets
- Provincial and municipal grant programs
- Community projects (e.g., community arenas and parks)
- Neighbourhood plans
- All other provincial legislation

MGA Review: Have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

There are questions at the end of each chapter in the workbook, and the Submit button can be found on the last page of this PDF.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 1 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-1
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

An introduction

1. Thinking to the future, what transformative changes are required in the MGA?

Chapter 2: Municipal Purposes and Structures

How municipalities are structured

The purpose of Alberta municipalities is to provide good government, deliver necessary or desirable services and develop safe and viable communities for all residents.

This chapter outlines the powers and responsibilities of municipalities, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Municipal powers

In order to carry out their purpose (to provide good government, deliver desirable services and develop viable communities), municipalities must have certain powers.

Some ways that the MGA empowers municipalities to manage their daily operations include:

- Bylaw-making powers concerning safety, health, land use, enforcement, business, and municipal services and finances.
- Natural person powers, which grant municipalities the same rights, powers and privileges as a person allowing them to make daily operation decisions such as entering into contracts, acquiring property and hiring staff.
- Finance and revenue powers so municipalities may charge taxes, user fees and levies.
- Land use development powers to manage land in a variety of ways, including ensuring the orderly location of homes, businesses, roads and more.
- Quasi-judicial powers to appoint members to appeal boards that consider assessment and land use planning matters.
- Special municipal powers, including expropriation, establishing hamlets and provision of municipal services.

All municipalities have the same scope of powers, regardless of size. The municipality's resources, including its administrative expertise, population, employment base and tax base, may influence a council's use of these powers.

B. Municipal structures

Alberta is made up of cities, towns, villages, hamlets, summer villages, municipal districts and specialized municipalities. These are called municipal types.

Municipal types can be grouped into three categories: urban, rural and specialized municipalities. A community's population size and density are factors a municipal council considers when determining which category it falls into.

New municipalities need to meet these thresholds; however, existing municipalities' populations may change through time.

Urban municipal types include:

- Cities, that have more than 10,000 residents, and are the only municipal structures that have title to roads
 - e.g., Edmonton or Camrose
- Towns, which have more than 1,000 residents
 - e.g., Banff or Fox Creek
- Villages, which have more than 300 residents
 - e.g., Thorsby or Alberta Beach
- Summer villages were intended for vacation use and consisted largely of non-permanent residents. Summer villages can no longer be formed.
 - e.g., Seba Beach or Ma-Me-O Beach

Rural municipal types include municipal districts, also often referred to as counties. These municipalities may be formed where the majority of properties are on large parcels of land and where there are 1,000 or more residents.

- e.g., Red Deer County or the Municipal District of Taber

A specialized municipality is a customized type of local government that is formed when other types of municipal structures do not reflect the local circumstances. Specialized municipalities have a mix of urban and rural areas within their municipal boundaries. For example, a rural service area is treated differently from urban service areas with respect to the accessing of grants (e.g. policing).

- e.g., Strathcona County or the Regional Municipality of Wood Buffalo

Under the MGA, municipal districts and specialized municipalities may recognize a community within their boundaries by designating them as a hamlet (e.g., Sherwood Park or Fort McMurray). The property owners in a hamlet are governed by the municipal district or specialized municipality.

Municipalities in Alberta

In 2012, Alberta had 349 municipalities across eight types of municipal structures (not including hamlets).

There are two other unique types of municipal bodies in Alberta:

- Special Areas
- Improvement Districts

Special Areas and Improvement Districts exist where historical or regional circumstances meant conventional municipal types (cities, towns, villages, etc.) were not feasible.

- Special Areas are established through the *Special Areas Act* and are included as municipal authorities in the MGA. The term Special Areas refers to three rural districts in southeast Alberta that were established in response to the depression and drought years of the 1930s. The Government of Alberta acts as council, although a local advisory council may be established to provide input.
- Improvement Districts were originally established in sparsely populated areas where there was neither the population nor the tax base to support and finance a viable local government. In many ways, the MGA treats Improvement Districts as any other municipality. Eight Improvement Districts remain today and, for the most part, are located on Crown lands in national or provincial parks. The province manages all local government functions for the Improvement Districts unless a local council has been elected.

C. Fundamental changes and municipal restructuring

Shifts in population, business and industry, and the needs of residents can lead a community to change in fundamental ways. The MGA outlines a variety of methods to create or fundamentally change the boundaries of a municipality. The tools available include formation, change of status, amalgamation, dissolution and annexation.

Formation

Formation is when a new municipality is established. The MGA outlines three ways in which the formation of a municipality can be initiated:

- At the province's initiative
- By a municipal council request
- A petition from the public

Change of status

A status change to any municipality (e.g. changing from a town to a city) may be initiated by:

- The municipality
- A petition signed by the majority of electors in the municipality and submitted to the province
- The Minister

Borders and restructuring

According to the MGA, municipal restructuring may only take place between adjacent municipalities – they must be contiguous, or share a common border.

Amalgamation

Amalgamation occurs when two or more municipalities join together and form a new municipal authority. Either the province or a municipality can initiate an amalgamation. Amalgamation processes are initiated collaboratively and voluntarily.

Dissolution

Dissolution takes place when a municipality ceases to be an incorporated entity and its land and residents become part of another municipality.

In May 2013, the MGA was amended to provide the legislative framework for one of the key components of the Municipal Sustainability Strategy – the new viability review process. The viability review process involves a collaborative review of the community sustainability, the development of options for strengthening the community and a public vote prior to any dissolution (where dissolution is identified as a desired option). Further information on the viability review process can be found [here](#).¹

Annexation

Annexation is when a municipality acquires additional land from a bordering municipality.

The municipality that wishes to annex land provides written notice of its intent to the province, the other affected municipality and to any local authority that the municipality considers would be affected by the annexation application. During the annexation process, municipalities negotiate with one another and attempt to agree on annexation conditions. The municipality must also undertake consultation with affected landowners and the public. The MGA does not outline a timeframe for the annexation process.

Municipal Government Board – Annexation Procedures

The municipalities submit a report on the outcomes of the negotiations to the Municipal Government Board (the Board).

The procedure for the Board is similar whether it is a contested or uncontested annexation with the exception that for contested annexations, the Board will hold a hearing. Following the hearing the Board produces a report with recommendations. A final decision is then made by the Province. The Province's

Contested or Uncontested

A contested annexation is when the municipalities do not agree or if objections from the public are received. An uncontested annexation is when all parties are in general agreement with the annexation.

¹ http://www.municipalaffairs.alberta.ca/documents/msb/1104_MSS_Report_June_14.pdf

annexation order may include any procedural matters relating to the transfer of land from one municipality to another and may require one municipality to pay compensation to the other, and/or impose special property tax conditions for the affected land.

The Municipal Government Board has informally developed and follows a set of 15 guiding principles when processing annexation applications and making recommendations after hearings. These principles are available [here](#).²

² http://www.municipalaffairs.alberta.ca/documents/mgb/MGB_Annexation_Principles_StAlbert_Sturgeon.pdf

Delegating powers: Have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 2 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-2
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Municipal powers

1. How should the Municipal Purposes of providing good government, providing services, and developing viable communities be defined?
 - Do municipalities have the powers needed to fulfill these purposes?

2. What types of powers are most appropriate for each of Alberta’s municipal structure types?

3. What limitations or additions, if any, should be considered for municipal powers (e.g. bylaw making powers, natural person powers, revenue raising powers, quasi-judicial powers, land-use/development powers, or special municipal powers)?

Municipal structures

4. How should the MGA organize and define its municipal structures?
What types of distinct authorities and responsibilities should be mandated for each different municipal structure type (e.g. title to roads and servicing standards, etc.)?
 - What types of distinct authorities and responsibilities should be mandated for each different municipal structure type (e.g. title to roads and servicing standards, etc.)?
 - What types of thresholds (e.g., population) should be applied to each municipal structure type? How should municipalities who fall below that threshold be addressed?
 - What consideration, if any, should be given to governance issues in hamlets?

5. When, if at all, should the Province allow the formation of new municipalities?
 - What formation criteria should be considered if new municipalities are to be formed?

Fundamental changes and municipal restructuring

6. The MGA provides for formations, annexations, amalgamations, and dissolutions; are the tools and mechanisms appropriate to address relationships between municipalities, the viability of communities, and good governance? Why or why not?

7. Are the procedures for formations, annexations, amalgamations, and dissolutions appropriate (e.g. initiation, negotiation, timelines, and compliance)? Why or why not?

8. Are the guiding principles of annexation sufficient? Why or why not?

9. What types of matters should be considered during negotiations and decisions (e.g. compensation, transfer of land)? Should guidelines be established? Why or why not?

10. Should restructuring (e.g. annexations and amalgamations) only occur between municipalities with contiguous boundaries? If not, under what circumstances should non-contiguous restructuring occur?

11. Should the MGA place minimum requirements on the number of public complaints that can trigger a public hearing in an annexation application? Why or why not?

Special areas and improvement districts

12. What should be the purpose of an improvement district and in what instances should a new improvement district be created or dissolved?

13. Would the Special Areas model work elsewhere in the Province? Why or why not? If so, where?

General comments

14. Are there any matters not covered in the questions above that you would like to highlight with respect to delegating powers?

Chapter 3: Governance and administration

How local decisions are made

The *Municipal Government Act* (MGA) contains specific guidelines for how municipalities operate. However, since no two communities are exactly alike, the MGA is also flexible, empowering municipalities to make decisions based on local needs.

This chapter outlines governance and administration for Alberta municipalities, as identified by the MGA. Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Municipal governance

A community's elected municipal council makes decisions and passes bylaws and resolutions on behalf of the community.

Some council responsibilities include:

- Making policies
- Setting the municipal budget
- Deciding on municipal programs

Council is empowered to make decisions affecting electorate representation. A council may set the number of wards for a municipality, establish and adjust councillor ward boundaries, and stipulate how many councillors will represent each ward. Currently, councillors may sit on local decision-making bodies. For example, councillors may form a majority on an assessment review board, or a municipal planning commission. They may also account for up to 50 per cent of the votes on a Subdivision and Development Appeal Board.

Councillors are disqualified if they act on matters where they (or a relative) have a financial interest, when they have excessive unexcused absences from council meetings or have been convicted of a criminal offence.

Council size

The MGA requires a minimum of three council members per municipality, and that any changes yield an odd number of councillors. Municipal councils make all other decisions regarding the appropriate number of councillors.

Transparency

Municipal governments are expected to provide open and transparent governance, especially in areas like disclosing financial interests, council, chief administrative officer and designated officer salaries, the right of the public to attend council meetings and citizen notification requirements.

Operating openly and transparently helps to ensure residents and other stakeholders have access to information and decisions that affect them.

B. Municipal administration

Municipal administration manages the community's day-to-day programs and services. The administration carries out the municipal council's decisions and manages community functions, like snow clearing and road maintenance.

The MGA distinguishes between the powers, duties and functions of the municipal council and the municipal administration. A municipal council is explicitly not to perform a power, duty or function of the administration. This separation of municipal law making from municipal administration helps define administrative roles and responsibilities.

Chief Administrative Officer

Every council is required by law to establish a chief administrative officer and designate one or more individuals with the responsibilities to carry out the powers, duties and functions of the chief administrative officer. The chief administrative officer is the only employee a municipality must have.

The chief administrative officer's main responsibilities are:

- Being the administrative head of the municipality
- Ensuring that the policies and programs of the municipality are implemented
- Advising and informing council on the operation and affairs of the municipality
- Performing the duties, functions and powers assigned by the MGA, other statutes and council

In fulfilling these responsibilities, the chief administrative officer and designated officers perform a broad set of administrative tasks, including:

- Council minute-taking
- Managing municipal finances
- Advising council of its legislative responsibilities under the MGA
- Making information available to the public on the salaries of councillors, the chief administrative officer and the designated officers of the municipality
- Reviewing and ensuring petitions meet requirements
- Certifying that a bylaw, resolution, meeting or public hearing was advertised appropriately

This broad set of responsibilities and tasks are integral to a municipality's management. How they are delegated among staff in the municipal administration can influence the efficiency of the municipality's daily operations and affect its long-term viability.

Governance and administration: Have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 3 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-3
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Municipal council

1. In what instances should councillors be able to sit on decision-making and appeal boards such as Municipal Planning Commissions, Subdivision and Development Appeal Board or the Assessment Review Board?
 - What is the right composition of the members on a board or commission (e.g. no councillors, no more than 50% council representation, 100% council representation etc.)?

2. What provincial standards, if any, should be considered for representation by population (e.g. number of voters per councillor or ward)?
 - How, if at all, should the number of councillors and electoral ward boundaries be determined?

3. What, if any, councillor disclosure rules (e.g. conflict of interest) should be included in the MGA?

4. How, if at all, should councillor disqualification be addressed in the MGA?

5. What, if any, provisions should be considered to help foster municipal transparency (e.g. Municipal Integrity Officer, Code of Conduct for councillors)?

Municipal administration

6. Who should determine the requirements for municipal administrations?
 - What minimum requirements are necessary for municipal administrations?
 - What, if any, positions should be required in Albertan municipalities?
 - What training or qualifications should be required for key administrative positions such as the chief administrative officer?

7. How should the MGA define the roles of council/councillors and administration?

General comments

8. Are there any matters not covered in the questions above that you would like to highlight with respect to governance and administration?

Chapter 4: Municipal finances

Managing revenue and spending

The programs and services that Alberta's communities offer help make them great places to live, work and play. The *Municipal Government Act* (MGA) outlines how the revenues that fund these programs and services are managed.

This chapter outlines Alberta's municipal finance management processes, as identified by the MGA. Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Financial administration

Responsible financial management is a primary focus of Alberta's municipalities. The MGA outlines a financial management framework, which requires municipalities to create a budget and engage the public on financial matters.

Through the MGA, municipalities are empowered to borrow funds and are responsible for making financial decisions. Financial administration and accountability are key components of the MGA.

Financial administration

The budgeting process affects all aspects of a municipality's operations. The MGA provides direction for municipalities on creating operating and capital budgets.

Debt limits

Through regulation, the province may limit the amount of debt a municipality may carry. Municipal debt limits, with some exceptions, are set at 1.5 times of the municipality's previous year's revenue. Ministerial permission may be given to exceed the limit. Some larger municipalities, such as Edmonton and Calgary, have been granted higher debt limits (two times their previous year's revenues).

Financial decisions

The MGA's financial management framework empowers municipalities to administer their finances within defined parameters. These aim to minimize financial risk and promote good financial management.

Borrowing

Prior to borrowing any funds, municipalities must create and (in most cases) advertise a borrowing bylaw that outlines:

- The borrowing amount
- The repayment terms (including the maximum interest rate)
- The duration of the loan

All borrowed funds must be used for the purposes identified in the municipality's borrowing bylaw.

Loans and guarantees

Municipalities may only loan money to non-profit organizations or one of the municipality's controlled corporations (e.g. EPCOR and Enmax). In some situations, a municipality may also loan money to a designated seller of natural gas.

Investing

Through the MGA, a municipality may invest its money in securities issued or guaranteed by the Crown or a bank, and securities of other public bodies and corporations with a high bond rating. Municipalities may also, with ministerial approval, invest in shares of a corporation. These are regulated under the Investment Regulation and the Major Cities Investment Regulation.

General financial matters

General finance provisions under the MGA include:

- Establishing that the municipal financial year is the calendar year.
- Identifying which designated officer has authority to open (or close) a municipal bank account.

Financial accountability

Municipalities strive to achieve good financial management. They are accountable to their citizens but also to the province. The MGA describes methods for municipal financial accountability and transparency.

Financial reporting

Each municipality must appoint at least one auditor for the municipality, and each of its municipally controlled corporations for which there is no statutory requirement of an audit.

Financial reporting

Certain financial reports must meet the Canadian Institute of Chartered Accountants' standards. These reports, which contain information to help assess a municipality's financial management, are submitted to council, the province and the public.

Municipalities must submit annually to the province, and make available to the public in a manner that council considers appropriate:

- Financial statements
- Financial information returns
- Auditor reports

Financial reporting is for information purposes and does not require provincial approval, but may result in provincial action if legislated requirements are not met.

B. Municipal revenue sources

Consistent and predictable revenue sources are vital to build strong municipalities. Through these revenue sources municipalities finance services and operations, pay debts and undertake capital projects.

General revenue taxes

(See Chapter 10 for more information)

Council may set property and business tax rates to fund things such as:

- Municipal operations
- Capital expenditures
- Programs
- Debt payments
- Requisitions
- Reserve funds

Targeted taxes

Council may collect targeted taxes to fund municipal infrastructure and specific improvements. Targeted taxes include:

- Special taxes (e.g., waterworks, paving and recreational services)
- Business revitalization zone taxes
- Local improvement taxes
- Well drilling equipment taxes

Levies

Council may apply targeted fees to developers and/or residents to offset the costs of municipal infrastructure or improvements.

Approval fees

Council may set fees for services, licences, permits and approvals required by residents, business and industry.

Requisitions

A requisition is the amount that a municipality is required to pay by imposing a tax rate for school purposes and the amount that is required to pay to a management body described within the Alberta Housing Act (Section 7).

Franchise fees

Council may charge a fee to a utility provider for the right to operate within its boundaries. These fees are paid by the utility provider and are identified on consumer utility bills.

Fines/penalties

Council may create fines and penalties for specific bylaw violations, like speeding, parking, and tax arrears. Fines are intended to encourage bylaw compliance.

Investment income

A municipality may invest funds to receive interest or dividend payments. The MGA generally restricts municipalities to low-risk securities, such as Crown-guaranteed investments or municipally controlled corporations. Municipalities may pursue other investments with provincial permission.

Grants

A municipality may apply for a variety of grants from provincial and federal governments to help finance its capital projects and some aspects of its operations. Although grants account for a significant portion of municipal income, with the exception of Grants in Place of Taxes, grants are not provided for in the MGA. The ability to give grants by the Province is regulated under the *Government Organization Act*.

Municipalities have a wide range of decision-making powers and tools to raise funds for the programs and services their communities require. Table 1 (see next page) outlines the percentage each revenue source contributed to the total revenue collected by all Alberta municipalities in 2011 and identifies who contributes to those costs.

Grants in Place of Taxes

The MGA identifies the types of properties that municipalities may apply to the Province to receive grants instead of taxes (e.g. provincially owned land).

Table 1: 2011 Municipal Revenues and their Sources

Revenue Source	Total (all municipalities)	Percentage of overall revenue	Property owner	Business owner	Development industry	Oil & gas industry	Utility providers	All citizens
Property tax	\$4,808,356,295	42.85%						
Business tax	\$212,484,611	1.89%						
Special taxes	\$9,264,899	0.08%						
Business revitalization zone taxes	\$3,665,315	0.03%						
Local improvement taxes	\$37,977,813	0.34%						
Well drilling equipment taxes	\$26,346,455	0.23%						
Developer agreements and levies	\$172,949,456	1.54%						
Sales and user charges	\$2,918,315,262	26.02%						
Franchise and concession contracts	\$375,057,714	3.34%						
Fines/penalties	\$193,192,205	1.72%						
Provincial grants	\$2,193,118,342	19.54%						
Federal grants	\$271,761,973	2.42%						
Total revenue	\$11,222,490,340	100%						

C. Fees and levies

Fees and levies are targeted sources of revenue for municipalities.

Fees

A fee is a charge to users of a service or good provided by municipalities (e.g., residents of many municipalities pay water-use fees). Under the MGA, municipalities may charge fees for a variety of items, including:

- Licences, permits or approvals established in municipal bylaws. (Fees may be at a different level for non-residents or businesses who do not operate a business in the municipality).
- A complaint about property assessments
- Any planning and development or land-use bylaw matters
- The use of former forestry roads
- Franchise fees which grant utility providers the right to operate within a municipality's boundaries (these are paid by the utility provider and are identified on consumer utility bills)

The MGA does not set maximum limits on most municipal fees for services, with the exception of complaint fees which are set by provincial regulation. Nor does the MGA require that the amount collected cover the full cost of providing the service. Court rulings have determined that the amount charged cannot exceed the cost of providing the service being paid for.

Levies

Municipalities typically charge levies to developers or property owners in a designated area. Levies are applied to a specific intended improvement.

Community Revitalization Levy

Municipalities may apply for a provincially-regulated community revitalization levy to fund infrastructure and other costs associated with revitalizing property within the community revitalization levy area.

Community Aggregate Levy *(also see Chapter 10)*

A council may, by bylaw, impose a levy on sand and gravel pits operating within the municipality to raise revenue for infrastructure and other costs.

Redevelopment Levy

If a municipality has adopted an area redevelopment plan, it may apply a redevelopment levy to developers or residents to pay for land for parks, schools or new/expanded recreation facilities.

Financing development

The MGA identifies the levies municipalities may collect, and what they can be used for. Most types of levies pay the infrastructure costs associated with development within municipalities.

Off-Site Levy

A municipality may collect off-site levies for use in providing roads, water, storm water or wastewater facilities.

Off-site levy bylaws may be applied at the time of subdivision or development. The MGA outlines the process municipalities must follow when creating an off-site levy bylaw. The Principles and Criteria for Off-Site Levies Regulation outlines how a municipality determines the off-site levy costs included in its bylaw. This includes negotiating the levy in good faith, and provisions for consulting with affected landowners and developers.

If someone objects to how a municipality has calculated an off-site levy, they may go through their Council or pursue recourse in the courts.

Subdivision and Development Levies

A municipality may require as a condition of a development permit or subdivision approval that an applicant pay for access to roads, walkways, public utilities, parking and loading facilities, as well as off-site or redevelopment levies.

Over-size Costs

Through the MGA, municipalities may require that subdivision or development permit applicants construct or pay for infrastructure that is larger than what is currently required (e.g., larger capacity wastewater systems). This is to accommodate future growth in municipalities.

When future development takes place, money is collected through levies from the new development, and the funds that had been previously collected for over-sizing are refunded proportionately to the first developer, with interest.

D. Regional Funding Approaches

Many Alberta municipalities have implemented regional cooperation. Some municipalities have partnered to develop regional service entities (*such as regional services commissions, discussed in Chapter 6*). Others have entered into cost-sharing arrangements to recognize the benefits their citizens may derive from services provided by other municipalities. In a few cases, municipalities have entered into voluntary revenue sharing agreements to support municipal service provision in neighbouring jurisdictions.

Municipal finances: have your say

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Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 4 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-4
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Financial administration

1. What basic standards, if any, should the province set regarding Municipal Finance (e.g. mandatory reporting, provincial fiscal year vs. calendar year)?
 - What legislative parameters, if any, are required to enable municipalities to adequately budget for both short and long term obligations?
 - How should municipalities consult with the public as part of the budgetary process?
 - What are the benefits and drawbacks of a municipality's fiscal year end being tied to the calendar year versus the provincial fiscal year?
 - What limits, if any, should be applied to municipal borrowing and investments and on what basis should these limits be set? (e.g. tying debt limit approvals to municipal budget submissions or considering available grant funding).

2. What provisions, if any, should be considered to increase municipal financial accountability (e.g. requirements to post municipal financial information on a website)?

Municipal revenue sources

3. What types of revenue sources (new and existing), should municipalities have access to?
 - What are the potential impacts of these revenue sources (for example, on municipal capacity, municipal equity, economic costs and benefits)?
 - How should these revenue sources be used?
4. What restrictions, if any, are appropriate for municipal investment?
5. If new revenue sources are made available, how should they be approved (e.g. choice of Council or via a referendum)?

Fees and levies

6. Should the MGA include standards or criteria surrounding the appropriateness of collecting levies? Why or why not?

7. Should the MGA consider alternative methods to pay for the cost of new development? If so, what other methods?
 - Who should be responsible for paying for the cost of new development?
 - Is the current list of uses that levies fund appropriate? Why or why not?

8. Is the current off-site levy bylaw-making process appropriate? Why or why not?
 - Is the current off-site levy calculation process transparent and open? If not, what improvements should be made?
 - Is the current process for resolving off-site levy issues (e.g. bringing challenges before the courts) appropriate for hearing disputes related to the calculation of off-site levies? Why or why not?

9. Is it appropriate for the MGA to allow for the collection of levies (redevelopment or off-site) for core infrastructure upgrades when an area is undergoing redevelopment? Why or why not?
 - What criteria should be developed for these levies to be collected?

10. Who should be responsible for the costs of over-sizing infrastructure for future growth in a municipality? Why?
 - Should there be any limits on the amount that may be required? Why or why not?

11. Should the criteria for establishing a community revitalization levy area be set out in the MGA (e.g. circumstances, net benefit, need for incentives, timing)? Why or why not?

12. Should the MGA include standards or criteria surrounding the appropriateness of collecting fees? Why or why not?
- Should there be limits on what fees can be charged and how much? Why or why not?

13. How should municipal franchise fees be calculated?

Regional funding approaches

14. Is the current reliance on voluntary cost and/or revenue sharing arrangements appropriate? Why or why not?
- What circumstances, if any, should the MGA require mandatory costs and/or revenue sharing?

General comments

15. Are there any matters not covered in the questions above that you would like to highlight with respect to municipal finances?

Chapter 5: Municipal accountability

Compliance, liability and oversight

The province, municipalities and Albertans are partners in delivering a common goal: building strong and vibrant communities. The *Municipal Government Act* (MGA) outlines the responsibilities and privileges of each partner.

This chapter outlines provincial, municipal and citizen accountability, as identified by the MGA. Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Compliance and accountability

No two Alberta communities are alike. That's why the MGA provides flexibility for how decisions are made and the actions municipalities may take. However, there are specific rules that municipalities, the province and the courts must follow to ensure a fair system.

Compliance

Following these rules, or legislative requirements, is referred to as compliance. Accountability is how and to whom one is held responsible, and relates to how compliance is enforced (e.g., fines, court rulings and appeal processes).

The MGA outlines more than 600 provisions regarding obligations and enforcement. It also identifies which people and entities are held responsible, for which requirement and to whom.

The bodies and individuals that may be held accountable include:

- Municipalities, which are accountable to the electorate and the province
- Designated officers (chief administrative officer, clerk, etc.), which are accountable to the municipality
- Council, which is accountable to the electorate and the province
- Citizens/businesses, which are responsible for following council-made bylaws.

The MGA creates a range of legislated obligations, including:

- Preparing assessment roll
- Municipal budgets
- Reviewing and ensuring petitions meet requirements
- Bylaw enforcement
- Establishing frameworks for appeals
- Financial reporting

Effective compliance and accountability depend on enforcement. The MGA specifies two key types of enforcement:

1. Complaints processes

Individuals, municipalities and other organizations may bring complaints or appeals to administrative tribunals and the courts. Examples include:

- Citizens applying to disqualify council members
- Municipalities applying for construction injunctions
- Property owners filing complaints about their property assessments

2. Monitoring and enforcement

Through the MGA, the Province and municipalities have the authority to monitor and enforce a range of legislated obligations. Examples include:

- The municipal enforcement of bylaws
- The province's ability to inquire into the affairs of a municipality or a regional services commission

Enforcement at the local level

The MGA's focus on municipal autonomy means that enforcement occurs primarily at the local level through council, local appeal boards or the courts. However, in extreme and rare circumstances, the Province may step in. This may take place in a variety of ways, including through a municipal inspection, by appointing an Official Administrator or dismissing councillors.

Public accountability

In Alberta, municipal councils are accountable to their citizens. There are a number of measures in place to ensure citizens have adequate opportunity to provide input into municipal processes.

General accountabilities

The MGA includes requirements for general elections, decisions to be made in public and financial reporting to be made public.

Accountability to the public is ensured through:

- Bylaw and advertising requirements
- Mandatory reporting
- The ability of citizens to petition the municipality on borrowing decisions (See *Chapter 12*)
- Public access to council minutes
- Public attendance at council meetings

Provincial tools

Municipal inspections and ministerial directives can facilitate greater public accountability by providing guidance on how to improve a municipality's processes.

Appeals

The MGA empowers citizens to appeal certain decisions to a range of local and provincial boards and tribunals. For example, citizens may appeal permitting decisions to a Subdivision and Development Appeals Board, while assessment appeals may be brought to an Assessment Review Board. (See *Chapter 13*)

B. Liability and risk management

In Alberta, the province, municipalities and citizens are all responsible for complying with many laws, including the MGA.

The MGA outlines liability and risk management issues associated with managing municipalities.

Liability

A municipality's liability refers to instances when individuals or organizations seek to recover costs for damages associated with municipal decisions. The MGA provides statutory protection from liability for municipal councillors, officials, boards and council committee members whose actions were in good faith. It also specifies situations where these same individuals and organizations may be found liable for their decisions, actions or inaction.

Municipal infrastructure

The MGA assigns liability to municipalities that fail to keep their infrastructure (e.g., roads, public works, public spaces) in a reasonable state of repair. An exception may be if a municipality can prove that it took reasonable steps to prevent the disrepair.

Inspections

The MGA exempts municipalities from liability for damages related to how and how often the municipality inspects and maintains municipal infrastructure.

Land values

Municipalities may be found liable if a public works-related structure or a road closure causes a permanent reduction in the appraised value of privately owned lands.

Councillors

Municipal councillors are liable for certain financial decisions such as:

- Expenditures not included in an approved budget
- Voting to borrow beyond the established debt limit of the municipality
- Voting to spend borrowed or grant money in a way it was not intended

Councillors are not liable for anything they do (or failed to do) in the performance of their functions under the MGA, provided they were acting in good faith.

Board members

Members of business revitalization zone boards, assessment review boards and the directors of regional services commissions are liable for expenditures not included in an approved budget.

Individuals

Individuals are liable for compliance with municipal bylaws and costs related to emergencies they have caused where the municipality must respond.

Risk management

Risk management within the MGA refers to measures intended to protect a municipality against fraudulent acts, as well as to promote public safety.

Liability and protection

To operate effectively, municipalities must strike a balance between their exposure to liability and protection from liability. At the same time, individuals and organizations must be able to recover losses or damages under appropriate circumstances.

The MGA addresses this balance, specifically regarding:

- Municipal inspection requirements
- Maintenance of municipal infrastructure and public places
- Liability protections for certain emergency operations and staff

These provisions within the MGA guide municipalities on how much operational due diligence may help avoid liability.

The MGA aims to ensure fairness to the public by placing reasonable expectations of due diligence on municipalities. Members of the public also have a responsibility to report damages soon after the event for which they would like to make a claim. Otherwise, the opportunity to recover damages from the municipality may be lost.

Financial risk management

The MGA encourages risk management in matters of municipal finance by establishing requirements for municipal budgeting, auditing, investing and borrowing. For example, municipalities are required to prepare operating and capital budgets, which must be audited. The investing rules are intended to prevent municipalities from becoming involved in relatively risky investments. The borrowing rules are intended to limit how much debt municipalities may assume, and require any guarantees (which are potential debts) to be entered on a municipality's ledger. Councillors are personally liable for expenditures and borrowings that violate the MGA's financial rules.

Planning and development risk management

In terms of risk management, the MGA specifies base criteria regarding development approvals and bylaw enforcement (e.g., landfill setbacks and issuance of stop orders). Municipalities are also empowered to create and adopt additional risk management practices regarding:

- Planning approvals
- Development permits
- Bylaw enforcement (e.g., ensuring structures are built in a location that meets the setbacks from property lines that are specified within the municipal land use bylaw.)

C. Provincial powers

Within the MGA, provincial powers aim to ensure municipal accountability and transparency to the public. That's why the MGA provides the Minister of Municipal Affairs and Cabinet with broad mandatory and discretionary power.

Some of these powers reflect the Province's role in ensuring municipal accountability and transparency, while other powers enable the Province to make regulations to address matters of provincial interest or emerging issues not contemplated in the existing MGA.

The MGA's risk management tools

The MGA's setback restrictions, various liability provisions and fidelity bond requirements are examples of how the province requires municipal risk management through legislation and regulation.

The MGA also provides municipalities with risk management tools by granting them bylaw enforcement powers.

The MGA also allows for delegation of some ministerial powers and roles, in limited circumstances, to other provincial and municipally operated entities. If a municipality or citizen wishes to challenge the province's application of these powers, they may do so through the courts.

The province's powers

Accountability and transparency

The Province may:

- Monitor municipal operations
- Require municipal compliance with legislation
- If necessary in extreme and rare circumstances, dismiss councillors or replace members of municipal administrations

The province also appoints members to some types of boards and administrative tribunals.

Formation of municipalities

The province has authority to create and dissolve municipalities, as well as alter municipal boundaries.

Assessment

The province has responsibility for the oversight of all assessment and the administration of equalized and linear property assessment.

Law-making powers

These powers are derived from the Constitution of Canada and establish the province's authority to adopt and amend legislation.

Accountability and transparency

The province's role in municipal accountability and transparency to the public includes oversight to ensure compliance. The province also monitors municipal activities through required reporting and inspections, while enforcement measures help ensure municipal compliance.

Municipal accountability: have your say

What do you think?

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Share your input on Chapter 5 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-5
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Compliance and accountability

1. In what instances does accountability need to be enhanced, relaxed or remain the same?
 - What public tools, if any, (e.g. petitions, plebiscites, elections) are appropriate for citizens to hold their municipalities accountable?
2. What other measures could be explored to facilitate public accountability prior to engaging the court system (e.g. municipal ombudsman)?

Liability and risk management

3. Are the current limits to and protection from liability appropriate?
 - To what extent should a municipality be liable for or protected from operational decisions relating to maintenance and inspections of its roads, public places and public works?
 - How, if at all, should liability be balanced with municipal priority setting (e.g. repairing roads and sewers vs. building recreation centers)?
 - To what extent should municipalities be liable for or protected from liabilities for planning decisions which gauge the safety of a potential development site or the management of municipal land?

4. What level of provincial oversight of municipal finances, if any, is necessary to address financial risks?
 - What is the appropriate balance between provincial oversight and municipal responsibility for financial risk management (e.g. provincial approval of municipal budgets, municipal investment options, or long term capital expenditures)?

Provincial powers

5. How can provincial powers help ensure municipal transparency and accountability to the public?

6. To what extent should the Minister have powers to direct municipalities in areas other than transparency and accountability (e.g. to address areas of public interest and consistency across the province)?

General comments

7. Are there any matters not covered in the questions above that you would like to highlight with respect to municipal accountability?

Chapter 6: Municipal services

Level of service, costs, management

Municipal governments provide services, facilities and amenities that enhance their communities. They also strive to develop communities that are safe and viable for all the people and businesses that call Alberta home.

This chapter outlines municipal services, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Service provisions

A key purpose of Alberta municipalities is to deliver necessary and desirable services for all residents.

Municipal councils are empowered to consider a broad spectrum of services, and the level of service may evolve with a municipality's needs. With the exception of road maintenance, there are no specific required services under the MGA.

Services may be delivered through:

- Municipal administration
- Private service delivery (e.g., rural gas, electric or water co-ops)
- Intermunicipal partnerships (e.g., intermunicipal agreements or authorities)
- Regional services commissions
- Corporations controlled by one or more municipalities

Councils decide, by resolution or bylaw, how services will be provided. This is typically divided into two categories: hard services (water, wastewater, solid waste management, etc.) and soft services (recreation, fire protection, cultural services, etc.). Service delivery may be affected by regulatory requirements of other legislation, such as the *Public Lands Act*, the *Environmental Protection and Enhancement Act*, and federal laws.

Municipal services

Municipal services are the infrastructure and programs that contribute to a municipality's sustainability and include such things as a municipality's road, utility, emergency, recreational and cultural network.

Service delivery is often the largest component of a municipality's budget. General revenue usually funds municipal services, although municipalities may create special taxes, apply levies and charge fees to raise funds for specific services within their boundaries (e.g. municipalities usually charge fees for utilities, recreational amenities, cultural amenities and other services).

B. Regional Services Commissions

A regional services commission is a corporate entity through which municipalities' partner to provide services regionally. These commissions consist of at least two municipal entities and can also include:

- First Nations reserves
- Métis settlements
- Armed forces bases

Economies of scale may facilitate a regional services commission's recruitment of skilled staff and may improve service delivery in a region. Recent provincial policy and grant funding programs (e.g. the Regional Collaboration Program) have also created incentives for municipalities to regionalize the delivery of some municipal services.

Establishment

Each regional services commission is established by individual regulations outlining the services it will provide and drafted to meet the needs of its members. Each regulation is approved by Cabinet. The province appoints a regional services commission's first board of directors, fixes their term and designates the board's chair. Currently, regional services commissions provide a variety of services, including:

- Water services
- Wastewater management
- Waste management
- Emergency services
- Airport management
- Land-use planning and assessment

The MGA outlines the powers of government related to a regional services commission, including governance, finance and operations. It also outlines the regional services commission's decision-making powers, financial responsibilities, and other powers such as expropriation.

Set-up charges

Municipalities may enter into agreements to join or create regional services commissions that require large upfront financial contributions many years before the regional services commission is able to deliver the agreed-upon services.

Transmission fees

Some communities access utility products (e.g., water and wastewater) that pass through the systems of multiple municipalities, regional services commissions and/or municipally controlled corporations before arriving at the delivery location. Each regional services commission or municipally controlled corporation may charge a transmission fee for its handling of the product. These transmission fees increase the costs to the end users.

Operational factors

Profit

The MGA does not address whether a regional services commission should be earning a profit. However, many regional services commission regulations require ministerial consent to operate for-profit and distribute surpluses to regional services commission members. While some regional services commissions may generate surpluses, profits are not a primary objective.

Finance

Regional services commissions are subject to financial controls, including the *Regional Services Commission Debt Limit Regulation*. This regulation reflects similar debt limit standards placed upon municipalities.

Dispute resolution

Depending on the issue that is contested, regional services commissions' disputes are directed to the appropriate board or tribunal.

Disestablishment

Upon recommendation of the Minister, the Lieutenant Governor in Council may approve a regulation to disestablish a regional services commission and address matters respecting the winding down of the regional services commission. If a regional services commission disestablishes, its assets and liabilities may be difficult to distribute. For example, assets such as landfills, lagoons, pipelines, and any other property firmly attached to land are not easily distributed among municipalities.

Financial management

Regional services commissions provide important services, so it is vitally important that their finances are managed in a sustainable way. For example, good financial management requires that a regional services commission's fee system fully supports its current operations, accounts for fluctuations in future revenue, and properly allocates long-term infrastructure funds. Good financial management also requires avoiding over-reliance on uncontrolled funding sources such as grants.

If a regional services commission's reserve fund is not sufficient to cover long-term infrastructure costs, its member municipalities may be called on to provide additional financial support. A lack of funds to cover long-term infrastructure replacement costs poses an unaccounted for liability and financial risk to regional services commissions, member municipalities and the province.

Transparency and accountability

The MGA provides several methods for resolving regional services commission related issues such as:

- Public utility related issues are directed to the Alberta Utilities Commission
- Expropriation concerns are brought before the Land Compensation Board or the Municipal Government Board, depending on the issue
- Other disputes go to the Transportation Safety Board under the *Transportation Safety Act*, or
- Some disputes go to the Municipal Government Board if there is no other forum available

Governance and administration

Regional services commission employees are responsible for setting up its governance framework and determining reporting procedures. As well, sometimes the commission staff must manage a type of service delivery that requires specific knowledge and expertise (e.g., water and wastewater treatment). However, the MGA does not specify any requirements for regional services commission employee or director qualifications.

C. Municipally controlled corporations

Municipally controlled corporations are publicly controlled corporations where a municipality (or group of municipalities) holds more than 50 per cent of the votes required to elect directors of the corporation.

Their goals, according to provisions in the MGA and *Control of Corporations Regulation*, are to:

1. Carry out business for a municipal purpose
2. Make a profit

A municipally controlled corporation may be formed to provide services or facilities for a municipality. For example, many of these corporations provide water, wastewater, waste management, electricity or natural gas distribution.

Municipally controlled corporation functions

Municipally controlled corporations may carry out a number of functions such as:

- Water service
- Wastewater service
- Waste management
- Electricity generation
- Connector road management
- Land redevelopment

Although municipalities own municipally controlled corporations, their day-to-day operations occur at arm's length. Municipally controlled corporations are incorporated under the Alberta *Business Corporations Act* and therefore are not subject to the same transparency requirements that apply to municipalities. This is intended to create a level playing field with corporations in the private sector but may limit municipal and public awareness of the municipally controlled corporation's service delivery.

Municipal services: have your say

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- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-6-1
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Service provisions

1. What services, if any, should a municipality be required to provide? What services, if any, should a municipality not be providing?
 - How, if at all, should the scope and level of servicing vary based on municipal structure type or local context (e.g. geographic, social or financial factors)?

2. What basic servicing standards, if any, should be defined in the MGA?
 - How should municipal services be incorporated into municipal asset management plans, mandatory public performance measures, public accountability measures or mandatory reviews?
 - What level of oversight should a municipality retain when service delivery is transferred to a regional services commission, a municipally controlled corporation, or a non-municipal service provider?

Regional services commissions

3. What services and governance requirements are best suited for regional services commissions?
 - How should the MGA provide for a regional services commission's establishment (e.g. Regulation, Cabinet Order, other means)?
 - How should the MGA address the disestablishment of a regional services commission with respect to the distribution of assets (e.g. lagoons, landfills, pipelines, and other property)?
 - How, if at all, should the MGA address the qualifications of staff and directors for existing and future regional services commissions?

4. How should the financial management of a regional services commission and responsibility for financial shortfalls be addressed in the MGA?
 - How can the MGA best facilitate regional services commission establishment and fair rates for the end user (e.g. third party approval of regional services commission rates, required cost sharing formulas etc.)?
 - How should regional services commissions account for their tangible capital assets (e.g. roads, bridges, water systems)?
 - Who is responsible should a regional services commission become financially unsustainable? How would this responsibility be delegated?

9. Who should oversee the operation of controlled corporation (e.g. councillors, the minister, or business organizations)?
- What is the best way to provide oversight of municipally controlled corporation decisions and recommendations?
 - What should the primary duty be for municipally appointed directors (i.e., duty to their council and electorate, or to the controlled corporation)? How should the MGA address this?
 - What, if any, provincial approvals should be required for the establishment of a municipally controlled corporation?
10. How should the MGA address the disestablishment of a controlled corporation with respect to the distribution of liabilities (e.g. debts) and assets (e.g. lagoons, landfills, pipelines, and property)? NOTE: the *Business Corporations Act* is currently the primary vehicle for dissolution.

General comments

11. Are there any matters not covered in the questions above that you would like to highlight with respect to municipal services?

Chapter 7: Market value assessment

Determining property values

Property taxes, based on property assessments, help communities fund the programs and services Albertans enjoy.

This chapter outlines market value assessment processes and accompanying administrative procedures, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Market value assessment and administration

In Alberta, most properties (residential, non-residential) are assessed based on their market value (the amount that a property might reasonably be expected to sell for if sold by a willing seller to a willing buyer). Market value assessment is performed using a process called mass appraisal.

In preparing property assessments using mass appraisal, municipalities follow several administrative procedures to ensure accuracy, quality and communication of the prepared assessments. This includes collecting information from property owners, sending assessment notices and providing information to property owners on how their assessments were prepared and the ability to file a complaint if necessary.

The annual mass appraisal process includes:

- The characteristics of the property as of December 31
- Gathering information on all properties
- Gathering information on property sale prices
- Analyzing the sales of similar properties
- Using valuation models to determine a market value for similar properties as of July 1
- Gathering information on property income.

The province audits assessments to ensure compliance with legislated/regulated standards for groups of properties. Property owners may challenge their individual assessments if they believe it to be inaccurate.

Non-Residential

Non-residential properties include industrial, commercial and institutional properties.

Property taxes

Market value assessment lays the foundation for equitable tax distribution among property owners. Properties are assessed and taxed based on what they are worth, recognizing the value of a property reflects its characteristics, location and amenities.

Although property assessments in a municipality may rise or fall from year to year, this may not necessarily translate into a corresponding rise or fall in the taxes payable. The purpose of the assessment process is to determine how the municipality's total property tax requirement will be shared among property owners.

Some properties are difficult to value under the market value approach as they typically do not sell on the open market (e.g., special purpose and industrial factories).

Assessment administration

Roles and responsibilities

The MGA outlines roles and responsibilities that are necessary in the assessment and tax system:

- The Minister of Municipal Affairs is responsible for assessment legislation and certain taxation policies, which are implemented, audited and enforced through the ministry and legislation.
- The municipal assessor is responsible for annually preparing assessments for all property in a municipality (except linear property assessment).
- The Designated Linear Assessor, appointed by the Minister, is responsible for preparing linear assessments (*the process for linear assessment is discussed within Chapter 8*).

Duty to provide information to assessor

The MGA requires property owners to provide information necessary for the assessor to prepare an assessment. Property owners who fail to provide the information requested by the assessor may not make a complaint about their assessment in the following tax year.

Access to assessment information

Under the MGA, a property owner is entitled to see information used to prepare the assessment of their property, including:

- All documents, records and other information about the property that the assessor possesses or controls
- Key factors, components and variables of the valuation model used to prepare the assessment, but not including coefficients

An assessed person also has the right to receive a summary of information on the assessment of any other property in the municipality. While the assessed person may see some of the assessment information, they are not entitled to see all documents, records or information regarding the other property. Information that may be requested includes:

- A description of the parcel of land and any improvements
- The size of the parcel of land
- The age and size or measurement of any improvements
- Key factors, components and variables of the valuation model, but not including coefficients, used to prepare the assessment

The Assessment Roll and the protection of personal information

The MGA requires each municipality to show the name and mailing address of the assessed person on the assessment roll. Primarily, this information is for municipalities to notify assessed persons of their property's assessment. However, advances in technology have led to the prevalent use of electronic assessment records and rolls. This may result in disclosure of an assessed person's name and address when someone else inspects the assessment roll, or when a municipality releases assessment information for other reasons as directed under the MGA (for example, in providing an assessment summary to another property owner, as previously discussed).

In relation to the protection of personal information, the MGA provides instruction that a municipality may provide information in its possession about assessments if the municipality is satisfied that confidentiality will not be breached.

Recording of assessed persons

The annual property assessment roll identifies who is liable to pay the tax. The manner in which an assessed person is recorded on the assessment roll depends on the assessed property type. Properties are assessed to owners, leaseholders, licence holders, people with exclusive use of the property and/or property operators.

However, some properties have multiple owners or leaseholders, which can create uncertainty if one or more owners cannot be contacted or does not pay their fractional portion of the taxes.

Electronic administration of property assessment and taxation

The MGA requires municipalities to keep paper copies of assessment and tax rolls, and assessment and tax notices must be sent to assessed persons using regular mail. The modern and widespread use of internet and e-mail may enable electronic administration. Many municipalities already provide assessment and tax information to property owners online, but the MGA does not explicitly mandate this, or allow sending an electronic notice rather than the use of regular mail.

B. Progressive and supplementary assessment

In Alberta, property assessments are prepared annually and based on the characteristics and physical condition of the property on December 31, of the year prior to the taxation year. Progressive and supplementary assessments allow municipalities to realize property tax revenue from partially complete (progressive) properties and properties completed after December 31 (supplementary) during the tax year.

Progressive assessment

Under the MGA, assessments may be prepared for partially complete residential and non-residential properties. If a property is under construction during the assessment year, the assessment is based on the portion of the improvements (buildings) that are complete (which can be anywhere between 1% and 99%) as of December 31 of that year. This is known as progressive assessment. If construction extends over multiple years, which, for example, may be the case for the construction of a high-rise building, the annual assessment is prepared for each year the property remains under construction to reflect the percentage stage of construction. Progressive assessments are prepared for residential and non-residential property, but not for linear or machinery and equipment property (see Chapter 8).

Supplementary assessment

If a property under construction is completed after December 31, a supplementary assessment may be prepared on all improvements (e.g. newly completed buildings; complete or operational machinery and equipment; and designated manufactured homes) during that tax year for taxation.

Supplementary assessments are not mandatory but if a municipality chooses to prepare a supplementary assessment they must pass a supplementary assessment bylaw that allows the municipality to assess improvements added to land after the December 31 condition date, and to levy property taxes on the improvements for a portion of the current tax year. To do this, the assessor for the municipality must determine the value of the new improvements added since December 31. This assessed value is then added to the supplementary assessment roll and taxed for the remainder of the tax year at a prorated amount.

Supplementary assessments on land

Sometimes, land use designations change during the tax year. These planning decisions may result in an increase or decrease in value to the land. However, municipalities cannot prepare supplementary assessments on land, and tax on the assessment increase resulting from the land-use change.

Supplementary assessments on linear property

Under the MGA, supplementary assessments cannot be prepared for linear properties. Municipalities are unable to realize the tax revenue from linear properties that are complete during the tax year until the following year's annual assessment and tax cycle (see *Linear Property in Chapter 8*).

C. Equalized assessment

In Alberta, property owners pay property taxes in proportion to the value of the property they own. Likewise, municipalities are required to contribute to the provincial education tax and other requisitions based on the proportion of assessment within their jurisdictions. (Note that education tax legislation is primarily outside of the MGA.)

Intermunicipal fairness and equity is critical when the province is requisitioning education property taxes from municipalities. To this end, the assessment for each municipality is adjusted before it can be used to distribute the education property tax and other cost sharing programs. This is achieved through a process called equalized assessment, a process that brings the total taxable assessment in all municipalities to a common level (100 per cent of market value).

Municipal Affairs is responsible for preparing equalized assessments for all municipalities. Each year, municipal assessors collect information on properties that have sold, including sale prices, and submit the information to the province along with their municipal assessments. Municipal Affairs' staff audits the information and analyzes the differences between the assessment values of sold properties and their actual sale prices to calculate the overall assessment level for each assessment class (residential or non-residential) in the municipality. These assessment levels are then used to bring the municipality's assessment to 100 percent market value for each assessment class.

Market value assessment: have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 7 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-7
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Market value assessment and administration

1. What is the most transparent and equitable valuation standard for the assessment of residential and non-residential property? Why?
 - What revisions, if any, should be made to the market value assessment process in Alberta (e.g. physical condition date and valuation dates)?
 - What properties should be assessed using the market value standard? Why?
 - What changes, if any, should be made to address special purpose (e.g. air traffic control towers) and contaminated properties (e.g. old industrial factories)?

2. What changes, if any, should be made to the administration of the property assessment and taxation system?
 - What changes could be made to improve efficiency in the assessment and taxation system (e.g., annual assessment cycle)?

3. What information should the MGA require property owners to provide to municipalities for the purposes of preparing mass appraisal assessments (e.g., rental rates, vacancy rates etc.)?

4. What assessment information should the MGA require municipalities to share with the public?
 - What revisions to the definition of “sufficient information” should be made to help the property owner ensure that the assessor prepared an adequate assessment?
 - In what instances, if any, should municipalities be able to charge a fee for providing requested assessment information?
 - What is an appropriate timeframe for assessors to respond to requests for assessment information?

5. What privacy provisions should the MGA include to protect the name and mailing address of assessed persons on the assessment roll?

6. What new provisions, if any, should be considered to assist municipalities in recording assessed persons and dealing with fractional ownership?

Supplementary and progressive assessment

7. What aspects, if any, of the supplementary assessment process need improvement?

8. What properties should be subject to supplementary assessments?
 - Should municipalities have the ability to prepare supplementary assessments for land on which a change in land use designation results in a change in value? Why or why not?

9. What properties should be subject to a progressive assessment?

Equalized assessment

10. Is the equalization process effective at creating a level playing field between municipalities, for cost sharing purposes? Why or why not?

11. What changes, if any, should be made to the administration of the equalized assessment process?
 - Is the complaint process for equalized assessment effective? Why or why not?

12. What changes, if any, should be made to the education tax requisition process in Alberta?

General comments

13. Are there any matters not covered in the questions above that you would like to highlight with respect to market value assessment?

Chapter 8: Industrial property assessment

Determining industrial property values

From community enhancements to job creation and tax payments, industry plays an important role in all Alberta municipalities.

This chapter outlines industrial property assessment practices, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Assessment administration

Roles and responsibilities

The MGA outlines roles and responsibilities that are necessary in the assessment and tax system:

- The Designated Linear Assessor appointed by the Minister of Municipal Affairs is responsible for preparing linear assessments
- The municipal assessor is responsible for all assessments in a municipality (except linear property assessments)

B. Linear property assessment

The MGA identifies two standards for assessing property values in Alberta:

1. Market value
2. Regulated assessment process

Some types of properties are difficult to assess using market value based assessment because:

- They seldom trade in the marketplace and when they do trade, the sale price usually include non-assessable items that are difficult to separate from the sale price
- They cross municipalities and municipal boundaries
- They are of a unique nature

Linear property is assessed through a regulated process that uses regulated assessment rates and procedures to calculate the assessed value of a property. The rates and procedures are developed on the basis of the property's project cost, use and/or production capability.

Linear property assessment challenges

The market value of linear property is difficult to estimate, since the value of the business, which is not subject to assessment, is not easily separated from the value of the property's physical components, which are subject to assessment.

Examples of linear properties in Alberta include:

- Gas and oil wells
- Pipelines
- Telecommunications and cable property
- Electric power property (generation, transmission and distribution)

Linear properties can be complicated to assess. The province prepares assessments for some properties that cross municipal boundaries. The province's involvement also ensures a consistent application of linear assessment practices.

The Alberta Energy Regulator provides 80 percent of the assessment inventory data (primarily on wells and pipelines) that is required for assessing linear property in Alberta. The remaining 20 percent is self-reported by linear property owners.

Time of first assessment

According to the MGA, linear property cannot be assessed until the construction of the property is complete or it is "capable of being used" on October 31 (condition date). During its construction phase, linear property is not assessed for those portions of the property that are complete. This is applicable to both linear property and machinery and equipment property, since most other types of property are assessed – and subject to taxation – over the course of their construction.

Definitions

Definition overlaps

There are many distinctions in legislation and procedure when it comes to assessing "linear property," "machinery and equipment," "buildings and structures," and "land." In some instances the definition of linear property and machinery and equipment appear to overlap.

Definition updates

Although industrial technologies are constantly evolving, linear property definitions have remained relatively static under the MGA. The definitions for linear property were created in the 1980s and reviewed in the early 1990s with the drafting of the MGA.

Communicating change of ownership

There is a requirement for a linear property owner to alert the linear property assessor, or the municipality, of a change in property ownership. However, there is nothing similar to the "Land Title Registry" with a unique lifetime identification number for linear properties. This becomes an issue during the months after linear assessment notices are sent out and before tax notices are distributed because if property ownership has changed, municipalities may not know who to send notices to.

Assessment exemptions

Under the MGA, linear property used in certain ways may be exempt from assessment. These include linear property:

- Used for farming operations
- Owned by gas cooperatives servicing communities with less than 500 residents

Progressive and supplementary assessments

Progressive assessment

Under the MGA, assessments may be prepared for partially complete (1% to 99% complete) residential and non-residential improvements. Unlike residential and non-residential properties, an assessment cannot be prepared for linear property if it is only partially completed as of October 31 (condition date). In other words, if a linear property or linear property system was completed and operational November 1, 2013, it would not be subject to tax until 2015. Typically it takes multiple years to complete a project.

Supplementary assessment

Under the MGA, supplementary assessments cannot be prepared for linear property. That means the linear property owners are not responsible for the payment of tax until the following assessment cycle after the property is complete.

C. Machinery and equipment property assessment

Like linear property, machinery and equipment property is assessed through a regulated process. Unlike linear property, machinery and equipment property is assessed by the municipal assessor. Machinery and equipment properties are the components or equipment within commercial and industrial properties where manufacturing or processing takes place including:

- Refineries
- Chemical plants
- Pulp and paper plants
- Upgraders
- Food processing facilities
- Grain and fertilizer handling facilities
- Bakeries and meat processing plants

Within these sites, the machinery and equipment property includes separators, fuel gas scrubbers, compressors, chemical injectors, metering and analysis equipment, ovens, mixers, grinders and other equipment and components.

Note that the land component and buildings and structures that are not integral to the machinery and equipment property are assessed at market value instead of regulated rates.

Assessing machinery and equipment property

Some machinery and equipment property is assessed using the regulated rates, procedures and depreciation tables outlined in the Machinery and Equipment Minister's Guidelines. However, for many properties where regulated rates are not specified they are assessed using the owners' reported project costs in accordance with the Construction Cost Reporting Guide (CCRG).

The market value of an industrial plant, which includes machinery and equipment, is difficult to estimate as there is a "business value" component. It is difficult to remove the business value from the plant. Machinery and equipment is assessed using a regulated process due to this difficulty.

Definitions

Definition overlaps

As noted in "Chapter 8, Section B: Linear property assessment," there are many distinctions in legislation and procedure when it comes to assessing "linear property," "machinery and equipment," "buildings and structures," and "land". In some instances, the definition of linear property and machinery and equipment property are similar.

Definition updates

Like the definitions of linear properties, machinery and equipment property definitions have remained relatively static. The current definitions were created in the 1980s and reviewed in the early 1990s with the drafting of the MGA. This is despite constantly evolving industrial technologies.

Special assessment and taxation treatment

Statutory assessment levels

Under the MGA and its regulations, machinery and equipment property assessment is subject to a statutory level of 77 per cent. In other words, once machinery and equipment property is assessed, the value is reduced by 23 per cent in determining the final assessed value. The original intent of this policy was to support investment in industry in Alberta.

Depreciation

Depreciation in assessment is the loss of property value due to any cause. For properties like machinery and equipment that are assessed using a regulated process, applicable levels of depreciation are set out under the Minister's Guidelines. Machinery and equipment properties receive immediate depreciation of 25 per cent and will receive a maximum depreciation of 60 per cent based on the age of the property. Additional depreciation is available if acceptable proof of loss is provided.

Education tax

Machinery and equipment property and electric power generation facilities do not pay education property tax.

Progressive assessments

Similar to linear property, machinery and equipment property may not be assessed if it is only partially completed by December 31 (condition date). As a result, if machinery and equipment property is not complete or in operation by this date, the property will not be assessed or taxed until the next annual cycle. In other words, if machinery and equipment property is completed (100%) and becomes operational January 1, 2013, it would not be subject to taxes until 2014. However, if a supplementary assessment bylaw and a supplementary tax bylaw are passed, a supplementary assessment may be prepared for machinery and equipment and it becomes taxable in the month that it is operational. This assessed value is then added to the supplementary assessment roll and taxed for the remainder of the tax year at a prorated amount.

D. Transportation properties

Mobility of people and goods is critical to all residents and industries within Alberta. This chapter outlines transportation property assessment practices, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

Airport property assessment

The province aims to ensure a stable and predictable taxation system for all types of property that play an important role in serving Alberta's growing economy. This includes airports.

The MGA identifies two standards for assessing property values in Alberta:

1. Market value, the amount a property might reasonably sell for on the open market by a willing seller to a willing buyer
2. Regulated assessment model

Generally, the market value standard is used to assess property associated with airports (e.g. terminals, retail shops, cargo facilities). Some types of airports and airport-related property are exempt from assessment.

The way in which an airport in Alberta is assessed depends on whether it is municipally owned, privately owned, or owned or leased by a regional airport authority.

Table 1: Airport assessment

Type of airport	How is it assessed?
Municipally owned airports	Exempt from assessment and taxation
Privately owned airports	Market value
Airports owned or leased (by Regional Airport Authorities)	Market value, with exemptions for specific components of the property

Several of Alberta's airports are municipally owned and locally operated, exempting them from municipal taxation. There are approximately 82 municipally owned airports across the province, located everywhere from Lethbridge to Grande Prairie.

Other Alberta airports operate under the *Regional Airport Authorities Act* and Regulation. Like other non-residential properties in Alberta, these are subject to property assessments (with some exemptions, outlined below). Regional Airport Authorities include the Fort McMurray Airport Authority, the Red Deer Regional Airport Authority, the Edmonton Regional Airports Authority and the Calgary Airport Authority.

For the purposes of assessments, airport properties have two components:

1. The terminal
2. The leased space within the terminal (for retail stores, restaurants, etc.)

Both components are currently assessed at market value.

Exemptions

The MGA outlines property assessment exemptions for specific improvements owned or leased by regional airport authorities, including:

- Runways
- Paving
- Roads and sidewalks
- Reservoirs
- Fencing
- Conveyor belts
- Cranes
- Weigh scales
- Loading bridges
- Machinery and equipment
- Pole lines
- Transmission lines
- Light standards
- Unenclosed communications towers

Privately owned airports do not receive any exemptions under the MGA. There are an estimated 90 privately owned airports in Alberta

Railway property assessment

Alberta municipalities are responsible for preparing railway assessments. The value of rail lines is assessed using two different approaches: regulated and market value.

Runways

Under the MGA, runways are not assessable, and therefore, not taxable if owned by a regional airport authority.

The term "runway" includes paths connecting runways with ramps, terminals and other airport facilities, and locations where aircrafts are parked, unloaded or loaded, refuelled or boarded.

Most railways in Alberta are assessed using the regulated model, a standardized process that uses regulated assessment rates, depreciation amounts, and procedures to calculate the assessed value of a property.

The regulated approach, outlined within the Alberta Railway Property Minister's Guidelines, assesses the value of railway property located within railway rights-of-way per kilometer of track. The value is factored annually by an assessment year modifier and an annual tonnage factor based on traffic.

The market value approach assesses the value of railway property located within an industrial facility or lines that branch off the railway right-of-way to an industrial facility.

Using different approaches to assess the value of rail lines has led to inconsistencies. As a result, the assessed values of the two types of rail lines of equal length could vary significantly.

Right-of-way

A right-of-way is a strip of land reserved for transportation purposes, such as railroads, highways or footpaths.

Industrial property assessment: Have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 8 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-8
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Linear property assessment

1. Is the current linear property assessment and taxation process fair and equitable for municipalities and property owners? Why or why not?
 - Is a regulated procedure based model a reasonable method to assess linear property? Why or why not?
 - What aspects of the regulated procedure based model could be improved? (E.g. condition date, etc.)? Why?
 - Are the current depreciation methodologies for linear properties still relevant? Why or why not?

2. Are there instances where existing linear property definitions in the MGA are unclear (e.g. machinery and equipment property overlap, electric power generation, new technologies)? If so, which definitions?
 - Should different property types within the same facility be assessed as a single property (using the same assessment process)? Why or why not?

3. What provisions in the MGA are necessary to ensure linear property ownership and relevant information is up-to-date?

4. To what extent are linear property exemptions for farming operations, gas co-operatives and rural electrification associations appropriate?
 - What changes, if any, should be made to linear property exemptions?

5. Should supplementary assessments be prepared on linear properties? Why or why not?

6. Should progressive assessments be prepared on partially complete linear properties? Why or why not?
 - If so, at what intervals during the tax year?

Machinery and equipment property assessment

7. Is the assessment and taxation process for machinery and equipment property fair and equitable for municipalities and property owners? Why or why not?
 - Is a regulated procedure based model a reasonable method to assess machinery and equipment property? Why or why not?
 - What aspects, if any, of the regulated procedure based model could be improved?
 - Who should have the responsibility for assessing major industrial machinery and equipment properties: municipal assessors, or the Province? Why?

8. Are there instances where existing machinery and equipment property definitions in the MGA are unclear (e.g., linear property overlap, electric power generation, new technologies, etc.)? If so, which definitions?
 - Should different property types within the same facility be assessed as a single property? Why or why not?

9. Are current assessment and tax policies and exemptions for machinery and equipment property still relevant?
 - Is the reduced statutory assessment level of 77 percent for machinery and equipment property relevant? Why or why not?
 - Are the current depreciation methodologies for machinery and equipment properties still relevant? Why or why not?

10. Should municipalities have the ability to prepare progressive assessments on partially complete machinery and equipment? Why or why not?

Airport property assessment

11. Is there an alternative assessment model, rather than market value that should be considered for assessing airport property?

12. Is the current assessment exemption and definitions for the specified components (e.g. runways) of regional airports still relevant? If not, why not?

13. How should privately and regionally owned airports be assessed and taxed?

Railway property assessment

14. Is a regulated procedure based model a reasonable method to assess railway property and are the current depreciation methodologies for railway properties still relevant? Why or why not?

- Should the regulated procedure-based model for railway properties apply to all railway properties in the Province (i.e., rail lines running within and outside of railway rights-of-way)? Why or why not?

15. Who should assess railway properties?

General comments

16. Are there any matters not covered in the questions above that you would like to highlight with respect to industrial property assessment?

Chapter 9: Farm property assessment

Determining farm property values

From border to border, within every region of Alberta, agriculture contributes to our economy and enriches our quality of life.

This chapter outlines farm property assessment practices, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

Regulated assessment model

The MGA identifies two standards for assessing property values in Alberta:

1. Market value
2. Regulated process

Farm property assessment may involve using both standards – the regulated assessment process for the farm land, and market value for improvements, such as the farm residence(s), farm buildings, and land within the parcel that is not for agricultural use.

The MGA identifies three elements of farm properties:

1. Farm buildings, or any improvement (other than a residence) that is used for farming operations
2. Farm residence(s)
3. Farm land that is used exclusively for farming operations

Actual use of the property

How the farm is actually used is important in assessing farm property. A parcel of land must be used for farming operations for its value to be assessed based on its agricultural use.

Farm diversity

There are nearly 50,000 farms across Alberta. They raise, produce and sell a wide range of agricultural products, including:

- Barley
- Canola
- Flaxseed
- Alfalfa
- Beef
- Bison
- Poultry
- Pork

The MGA through regulation defines “farming operations” as the raising, production and sale of agricultural products. For example, if a property owner uses the major portion of a property for farming but runs a welding shop on a small piece of the parcel, that portion of the parcel and any improvements used for the commercial operation would be assessed at market value as a commercial operation.

Classes of farm land

There are three classes of farm land, each with a base assessment rate:

- Dryland arable
- Dryland pasture
- Irrigated arable

These base assessment rates are adjusted based on factors relating to agricultural production, such as region, soil depth and surface quality, and are further adjusted on such factors as lending rates, commodity prices and proximity to the nearest agricultural services centre.

Farm land assessment

Municipal assessors use a comprehensive set of rating schedules, set by Municipal Affairs, to determine farm land assessments. These schedules were developed in the 1970s, and were based on the typical agricultural productivity of the times. The current rating system, including the assessment rates, was updated in the 1980s. Since then, technological, economic and market-related changes have changed the day-to-day operations of the agricultural industry.

Marketplace factors that can affect the value of a farm property include diversification and regional advantages or disadvantages related to the location of the farm property (such as relative access to urban services centres or irrigation). Alberta Agriculture and Rural Development maintain a database of agricultural land values and transfers based on actual real estate sales.

Farm buildings

Farm buildings (not including farm residences) located in a rural municipality are fully exempt from assessment. Farm buildings located in an urban municipality or urban service area of certain specialized municipalities are exempt to the extent of 50 per cent of their assessment.

Farm land potential

When a parcel of farm land is assessed, the value is based on the land’s potential use for farming operations. If the land is used for pasture but is capable of producing typical crops, the land would be assessed at its potential to produce typical crops.

Evolving agricultural industry

The agricultural industry is evolving. Members of the community are diversifying their products, adopting advanced technologies, catering to specialized niche markets and setting up operations that add value to primary commodities. It can be challenging for municipal assessors to distinguish between a farming operation, as defined by the MGA, and a processing or manufacturing operation that uses farm products. Under current legislation the former should be assessed as farm property, while the latter should be assessed as machinery and equipment.

The challenge in determining what qualifies as a farming operation can lead to a lack of predictability in assessment, and thereby tax revenue, for municipalities.

Intensive farming operations

Significant changes to the agricultural industry have taken place in Alberta since the MGA was last updated, including:

- Growth in cattle feedlots
- Intensive poultry and hog enterprises (also known as confined feeding operations)
- Greenhouses
- Mushroom barn operations

These high-density agricultural enterprises typically operate on small areas of farm land that are building-intensive in nature. However, farm buildings are fully exempt from assessment in rural areas, and are exempt to the extent of 50 per cent of its assessment in urban areas, thereby receiving an automatic tax benefit. Because of the current focus on land, and not buildings, under the current farm property assessment regime, there are wide variations in the levels of property tax being paid by agriculture operations with similar profits but different types of farm enterprises.

Managed woodlots

There has been much discussion over the last several years about managed woodlots and whether it would be appropriate for them to be included in the definition of “farming operations”.

A managed woodlot is a parcel of land, usually on a farm, ranch or other private property, with a woodlot management plan in place. This land is set aside primarily for the growing, management, and harvest of trees for sale as unprocessed logs and potentially a variety of other ancillary products.

Although a rate for managed woodlots is included in the Farm Land Minister's Guidelines, it was never formally included in the definition of "farming operations" in Alberta. This means managed woodlots are currently assessed using the market value standard and not the regulated farm assessment process.

Farm residence assessments

The sites on which farm residences are situated are assessed at market value, rather than farm land rates. Farm residential sites are considered for assessment purposes to be three acres in size, and are assessed as if they are a separate parcel of land.

In rural municipalities, farm residences are partially exempt from assessment for property tax purposes. The amount by which a residence is exempt is based on the assessed value of the agricultural land that the property owner owns or leases to a maximum assessment exemption amount of \$61,540. If there is more than one residence on the owner's farm land, each additional farm residence may receive an assessment exemption of up to \$30,770. As a result, farm residences in rural municipalities pay less property tax than non-farm residences of similar value.

This exemption only applies to farm residences located in a rural municipality. There is no exemption for farm residences located in an urban municipality.

Farm property assessment: Have your say

What do you think?

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We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

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Share your input on Chapter 9 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-9
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Farm property assessment

1. Is the assessment and taxation process for farm property fair and equitable for municipalities and property owners? Why or why not?

2. Should urban and rural farm properties be assessed in a consistent manner? Why or why not?

3. What, if any, special assessment and taxation treatment should farm property receive? Why or why not?

4. Should the current productivity rating system be used for the assessment of farm land? Why or why not?
 - What factors should the assessment value of farm land be based on?
 - What is an appropriate interval to review and update farm land rates?

5. Does the existing definition for farming operations reflect current farming practices, and does it include and exclude the right properties (e.g. managed woodlots, farm buildings, intensive farming operations, etc.)? Why or why not?

6. Should intensive farming operations be assessed differently than the more traditional types of farming operations? Why or why not?

7. Are the current assessment exemptions for farm residences in a rural municipality relevant (i.e., \$61,540 reduction in assessment for the first residence and \$30,770 for every residence thereafter)? Why or why not?

General comments

8. Are there any matters not covered in the questions above that you would like to highlight with respect to farm property assessment?

Chapter 10: Taxation and exemptions

How municipalities raise funds

Property taxes help municipalities fund the programs and services Albertans enjoy. The *Municipal Government Act* (MGA) outlines municipal property taxation powers and processes within Alberta communities.

This chapter outlines Alberta municipal taxation processes and exemptions, as identified by the MGA. Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Taxation

In Alberta, municipalities may set tax rates in the following assessment classifications:

1. Residential (*see Chapter 7*)
2. Non-residential (including linear, airport, railway, commercial properties) (*see Chapter 7 & Chapter 8*)
3. Farm land (*see Chapter 9*)
4. Machinery and equipment (*see Chapter 8*)

Each year, municipal councils determine the amount of money they need to operate their municipality. From this amount, they then subtract known revenues (licences, grants, permits, etc.). The remainder is the amount of money municipalities must raise through taxes to provide programs and services for the year.

Under the MGA, council may determine which taxes and levies to impose:

- Property tax
- Business tax
- Business revitalization zone levy
- Community aggregate payment levy
- Special tax
- Well drilling equipment tax
- Local improvement tax
- Community revitalization levy (subject to Provincial Government approval)

Property tax

Property taxation is a significant source of municipal revenue. Municipal councils are responsible for setting tax rates, which is the amount payable per dollar of the assessed value of a property (historically known as a “mill rate”). Tax rates are determined by dividing assessed values by the municipalities’ revenue requirements. Tax rates may be different for residential, non-residential and farm land; however the municipal tax rate for machinery and equipment must be the same as the non-residential rate.

In addition to setting the tax rates, a municipality is responsible for calculating the taxes payable, issuing tax notices, collecting taxes, and enforcing tax debts.

Business taxes

Under the MGA, municipalities may impose a tax on businesses operating within the municipality. This business tax is separate from the municipal property tax. Currently, only one municipality in Alberta is imposing a business tax, but it is phasing out the business tax and collecting the revenue through the non-residential property tax base.

Business revitalization zone tax

Sometimes business owners wish to improve the area in which they do business. Improving the area can mean constructing improvements, installing decorative lighting, plantings, boulevards, parking, or any other type of improvements that will beautify and maintain property. They may lobby the local council to establish a business revitalization zone. It is within the business revitalization zone that any improvements will be done. Specific business revitalization zone taxes will be shown on business tax notices for all business operating in the business revitalization zone. The tax is paid by the business owner, like business tax, and is payable for the current year on the same date business taxes are due.

Community aggregate payment levy

A municipality may pass a community aggregate payment levy bylaw to impose a levy in respect of all sand and gravel businesses operating in the municipality. This levy is intended to raise revenue to be used toward the payment of infrastructure and other costs in the municipality. A community aggregate payment levy must be paid by the persons who operate sand and gravel operations in the municipality.

Improved Properties

When a property is “improved” it means an improvement has been added to the property.

Under the MGA, an “improvement” means a structure, anything attached or secured to a structure that would be transferred without special mention by a transfer of sale of the structure, a designated manufactured home, and machinery and equipment.

Special tax

A municipality may choose to provide or construct a special service that will benefit a defined area within a municipality. The municipality would levy a special tax to fund the project. Some examples of special services or constructions include:

- Waterworks and sewers
- Boulevards, pavement, and drainage ditches
- Dust treatment
- Repair and maintenance of roads, sewers, and boulevards
- Ambulance service and fire protection
- Recreational services

A special tax can only be imposed if council passes a bylaw. This must be done on an annual basis. Any revenue from a special tax must be applied to the specific service or purpose that is stated in the bylaw. A property owner is responsible for paying this tax.

Well drilling equipment tax

Municipalities may pass a well drilling equipment tax bylaw that imposes a tax on oil and gas drilling equipment operating in the municipality. This helps municipalities offset the cost of repairing roads damaged by the transport of drilling equipment. Municipalities may also enter into road use agreements with companies for the same purpose.

Local improvement tax

A local improvement tax is imposed on a specific area within a municipality to fund a service or improvement applied to a particular area only. The improvement benefits that particular area rather than the municipality as a whole. Some examples of local improvements are sidewalks, lane lighting, or paving.

Local improvement taxes are applied to land. This means that the owner of the land is responsible for paying the local improvement tax. A local improvement tax is allocated as an annual charge but may be charged for a set number of years.

Community revitalization levy

Municipalities may apply for a provincially-regulated community revitalization levy to fund infrastructure and other costs associated with revitalizing property within the community revitalization levy area.

Split tax rates

Under the MGA, a municipal council may divide the residential class into sub-classes in any manner it considers appropriate. This allows a municipal council to set a separate tax rate for different types of residential properties (e.g., single family home versus an apartment complex). However, councils may not define separate tax rates for different property types of improved non-residential property within the same tax class (e.g., major industrial properties versus local small businesses).

Linking tax rates

In Alberta, prior to 1995, the residential tax rates could not be less than 75% of the non-residential tax rate. This is called linking tax rates. When the 1996 MGA was introduced, the requirement for linked tax rates was removed. In recent years, the differential between the two rates (e.g. one municipality's non-residential tax rate is three times their residential tax rate) has resulted in some non-residential property owners paying proportionally more municipal taxes than residential property owners.

Tax agreements

Under the MGA, a municipality may make a tax agreement with an owner of a public utility or linear property occupying municipal property. A tax agreement is made instead of paying the property taxes that would otherwise be required. Some municipalities and industry property owners may opt for this agreement for greater predictability and consistency in revenue and expenses.

Tax recovery

Municipalities rely on property taxes to provide services, make improvements to infrastructure and meet their financial obligations. The tax recovery process outlined within the MGA provides a process that the municipality can use to collect outstanding taxes. This process allows a municipality to obtain title and sell property that is in property tax arrears. However, a municipality may become liable for any issues arising from the property (e.g., contaminated lands).

B. Exemptions and other special tax treatment

Under the Alberta property assessment and taxation system, property is subject to municipal assessment and taxation. However, some types of property are exempt.

Property tax exemptions are achieved in two ways:

1. Through assessment exemptions (properties are not assessed)
2. Through taxation exemptions (although properties are assessed, they are not tax liable or are partially tax liable)

Exemptions around the world

The practice of exempting property is worldwide.

Exemptions typically include "property owned or used by organizations providing services related to government, education, charity, religion, culture, and historic preservation."

- International Association of Assessing Officers, Assessment Administration (Chicago: International Association of Assessing Officers, 2003).

Property assessment and tax exemptions in Alberta fall under several broad categories:

- **Constitutional** (e.g., municipalities cannot levy taxes on federal government property)
- **Traditional** (e.g., places of worship, such as churches, temples, mosques, and cemeteries)
- **Public or quasi-public organizations** (e.g., hospitals and schools, libraries, nursing homes, non-profit organizations such as youth hostels and veterans' associations and other organizations that are funded by government or receive grants)
- **Public Infrastructure** (e.g., roads, bridges and monuments)
- **Business incentives** (e.g., exemptions designed to encourage economic development)

There are also other types of special treatment for assessing and taxing properties. Some properties receive special treatment through partial assessment and regulated depreciation. Table 1 on the next page outlines the various assessment and tax exemptions that apply to specific property type.

The municipality's role

Exemptions are generally related to who owns a property and how it is used. According to the MGA, when property is held by a non-profit organization and is used for a public benefit, it is generally eligible for a tax exemption.

The MGA empowers municipalities to pass bylaws to provide further exemptions to organizations, such as a non-profit care facility. Municipalities also have the discretion to make certain types of tax-exempt properties taxable (hostels, student dormitories, properties held by veteran organizations, etc.).

The table on the next page shows the types of properties that receive special assessment and tax treatment. There are various exemptions and special tax treatment including:

- The 77% assessment on machinery and equipment.
- Accelerated depreciation for machinery and equipment properties.
- Full assessment exemption of farm buildings in rural municipalities.
- Partial assessment on farm residences in rural locations.
- Partial assessment on farm buildings in urban locations.
- Exemptions on linear property used for farming operations.
- Exemptions on linear property used for rural gas cooperatives.
- Exemptions on linear property used for rural electrification properties.
- Zero education tax rate for machinery and equipment properties.
- Electric power generation facilities are exempt from paying education property tax.
- Excluded costs from assessment calculation on linear and machinery and equipment properties.

Table 1: Exemptions and Special Tax Treatment

Property Type	Assessment exempt	Assessment partially exempt	Municipal tax exempt	Education tax exempt	Municipal tax partially exempt	Education tax partially exempt
Publicly-owned infrastructure or equivalent privately-owned facilities	●		●	●		
Minerals and growing crops	●		●	●		
Property in Indian reserves and Métis settlements	●		●	●		
Crown property in rural areas that is not used	●		●	●		
National and provincial parks	●		●	●		
Interest in timber disposition or interest under a permit or authorization for grazing of stock	●		●	●		
Wheel loaders, wheel trucks and haulers, crawler type shovels, hoes and dozers.	●		●	●		
Linear property used in farming operations	●		●	●		
Linear property used in rural gas cooperatives	●		●	●		
Property owned by rural electrification associations	●		●	●		
Farm buildings in rural areas	●		●	●		
Airport runways, taxiways and aprons	●		●	●		
Federal, provincial, and municipal government property			●	●		
Property owned by non-profit organizations or other bodies that provide services to the public that are related to charity, education, health, religion, culture, sports and recreation.			●	●		
Machinery and equipment		●		●	●	
Farm residences in rural areas					●	●
Farm buildings in urban areas					●	●

Taxation and exemptions: have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 10 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-10
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Taxation

1. Should business tax be removed as an option for municipalities to impose? Why or why not?

2. In what ways, if at all, is the well drilling equipment tax appropriate?

3. Should tax rates among residential and non-residential property be linked or related by some factor or ratio? Why or why not?
 - If so, at what factor or ratio should they be linked?

4. Should municipalities be able to apply separate tax rates (i.e. split mill rates) to different types of non-residential property? Why or why not?

5. Do any areas of the tax recovery process need revision (e.g. tax recovery for contaminated lands, linear property)? If so, which areas?

6. Should any new provisions be considered to assist municipalities in the recovery of unpaid taxes? If so, which provisions?

7. Should the scope of tax agreements be expanded to include other property types? Why or why not?
 - If so, which types of property?
 - Should any new provisions be considered to assist municipalities and tax payers in making tax agreements? If so, what provisions?

General comments

13. Are there any matters not covered in the questions above that you would like to highlight with respect to taxation and exemptions?

Chapter 11: Planning in Alberta

Municipal planning tools and requirements

The *Municipal Government Act* (MGA) identifies the planning tools and resources Alberta communities use to build and grow in a sustainable way.

This chapter outlines Alberta's planning tools, resources and requirements, as identified by the MGA. Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Managing growth and development

Municipal planning shapes how our municipalities, and our province, look and function.

The MGA provides guidance to municipalities regarding their planning and development roles and responsibilities.

Municipal policies and plans must comply with:

- The Land Use Policies adopted under the MGA
- Any regional plans created under the *Alberta Land Stewardship Act*
- Any growth management plans (e.g., the Capital Region Growth Plan) that are adopted under legislation or intermunicipal agreement
- Any other legislation (e.g., *Water Act*)

Land Use Policies

Land Use Policies, established in 1996, serve to identify areas of provincial interests with municipal plans related to land use and growth. They encourage:

- Cooperation between municipalities and other authorities to address planning issues and implement plans and strategies

Planning and development

Under the MGA, planning and development legislation in Alberta aims to provide municipalities with the ability to prepare plans "to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta, without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest."

- Establishment of land use patterns, which:
 - Make efficient use of land, infrastructure, public services and facilities
 - Promote resource conservation
 - Enhance economic development
 - Minimize environmental impact
 - Protect natural environments
 - Develop healthy, safe and viable communities
- Maintenance and enhancement of a healthy natural environment
- Maintenance and diversification of the agricultural industry
- Efficient use of the non-renewable resources
- Protection and sustainable use of water
- Preservation, rehabilitation and reuse of historical resources
- A safe, efficient and cost effective provincial transportation network
- Development of well-planned residential communities, a high quality residential environment and adequate and affordable housing for all Albertans

Alberta Land Stewardship Act

The *Alberta Land Stewardship Act* was enacted in 2009 to provide the legislative framework to plan for the future needs of Albertans and manage growth, while respecting existing property rights.

As regional plans are developed and adopted under the *Alberta Land Stewardship Act*, the Land Use Policies will no longer be applicable in areas where regional plans are in effect. And while each regional plan will be distinct to the area it includes, there may be common themes among the regions.

Managing growth

Municipalities plan for future growth through their statutory plans and land use bylaws. In 2008, the Capital Region Board Regulation was created and it defined matters for the region's growth plan to address, the process for approving the plan and actions to be taken by the Capital Region Board's municipalities to adhere to the plan. The province approved the Capital Region Growth Plan in 2010. Recent amendments to the MGA created a framework for growth management plans to be voluntarily created in other areas of the Province.

B. Statutory plans and land use bylaws

A municipality develops statutory plans to identify future plans for development within municipal boundaries and the immediately surrounding area. These statutory plans help with local planning and economic growth, and act as a guide for future land-use expectations for citizens and businesses.

Statutory plans, when created or amended by municipalities, must meet certain criteria as specified within the MGA.

Statutory plans are passed by municipal bylaw and future councils, landowners and developers are bound by the plan or must follow the formal amendment process to change the plan.

Statutory plans must be consistent with one another and with any regional plans adopted for the area under the *Alberta Land Stewardship Act*. The Land Use Bylaw, although statutorily required through legislation, is not considered a statutory plan within the definition of a statutory plan in the MGA. Instead, it is the tool municipalities use to implement their statutory plans.

Statutory plans

Subdivision and development decisions should be consistent with any approved statutory plan. However, municipal councils are not obligated to undertake any of the projects identified within a statutory plan. The MGA includes a number of statutory plans. Statutory plans include:

- Intermunicipal Development Plans
- Municipal Development Plans
- Area Structure Plans
- Area Redevelopment Plans

Intermunicipal development plan

Two or more municipalities may develop and adopt an intermunicipal development plan for areas within their boundaries. The intermunicipal development plan should provide for future land use within the identified intermunicipal development plan area and must identify procedures to:

- Resolve conflicts
- Manage amendments or repeals
- Administer the plan

The Minister of Municipal Affairs may require municipal authorities to establish an intermunicipal development plan.

Municipal Development Plan

Municipalities with a population of more than 3,500 must develop and adopt a municipal development plan. While smaller municipalities do not have the same requirement, many have also done so. The municipal development plan addresses future land use and development within the municipality and coordinates land use, future growth patterns, transportation systems, municipal services and facilities within the municipality, as well as other infrastructure with adjacent municipalities.

Area Structure Plan

A municipal council may adopt an area structure plan for developing a specific area within the municipality. Unlike other statutory plans, an area structure plan is usually prepared by a developer and not necessarily initiated by the municipality.

An area structure plan must describe the:

- Proposed development sequence
- Proposed land uses for the area
- Proposed population density of the area
- General location of major transportation routes and public utilities

Area Redevelopment Plan

A municipal council may develop an area redevelopment plan for a designated area of the municipality to:

- Preserve land and buildings
- Rehabilitate, remove or construct buildings
- Improve roads
- Facilitate development in the area
- Collect redevelopment levies

An area redevelopment plan includes the objectives of the plan, the proposed land uses, the reasons for any redevelopment levies to be proposed as part of the plan and any proposals for acquiring land for municipal uses, schools, parks and recreation.

Land use bylaw

Under the MGA, all municipalities are required to adopt a land use bylaw, which:

- Divides the municipality into districts
- Prescribes the uses of land
- Establishes development standards for each district
- Provides for a system for issuing development permits

Direct control districts

Direct control districts are special land use districts that may be designated in the land use bylaw, provided the municipality has adopted a municipal development plan. Direct control districts are typically used when a proposed development does not fit within the other land use districts in the land use bylaw, or a development is unique.

Direct control districts are distinct from other land use districts because it is the municipal council that issues decisions on development permits in the area, unless council has delegated this responsibility to another planning authority. Council may use direct control districts when it wishes to have control over the development of the land or use of the buildings within a particular area.

Public involvement

All statutory plans and land use bylaws are adopted by bylaw, and when preparing a statutory plan or land use bylaw, the municipality must hold a public hearing.

A notice of the public hearing is published in a general circulation newspaper, or mailed to residents directly affected by the bylaw. The notice contains the purpose of the public hearing and the bylaw, and the date, time and location of the public hearing. If an intermunicipal development plan is being prepared, the councils from both municipalities may hold a joint public hearing.

The public hearing gives those affected by the proposed bylaw the opportunity to have their say. After hearing from the public, council makes its decision regarding the bylaw.

When a proposed amendment to the land use bylaw changes the designation of a land use district, the municipality must include the address and map of the area in the notice. It is then sent to the landowner and to the landowners adjacent to the area. If the area is adjacent to another municipality, it is also sent to the neighbouring municipality

When preparing a statutory plan, the municipality must:

- Provide a means for local citizens to make suggestions
- Notify the public of the plan preparation process
- Notify school boards operating in the area
- Notify neighbouring municipalities when a municipal development plan or area structure plan includes an area adjacent to another municipality

Planning bylaw process exemptions

The MGA exempts some land and several types of development from planning and development regulations, including:

- Métis settlements
- An area of Crown land that is designated under the *Public Lands Act* that is located within a municipal district or specialized municipality
- Development approvals for confined feeding or manure storage facilities, roads, wells, and pipelines

Cabinet may make additional exemptions from the MGA and its regulations through the Planning Exemption Regulation.

Additionally, a license, permit, approval or other authorization granted by the Natural Resources Conservation Board, Alberta Energy and Utilities Board, Alberta Utilities Commission or the Alberta Energy Regulator prevails over any municipal plans or planning decisions.

Statutory plans and land use bylaws contents

The MGA identifies what to include within each type of statutory plan and land use bylaw, and what is optional. However, some related matters do not need to be addressed in statutory plans or land use bylaws (such as efficient use of land, affordable housing, inclusionary zoning, brownfields, and climate change) or may fall outside the current categories of statutory plans (such as municipal sustainability plans, capital asset management planning).

Hierarchy and consistency

Statutory plans are often applied hierarchically, or with certain levels of importance, to reflect a range from general to specific. The MGA requires statutory plans be consistent with one another and with any regional plans adopted for the area under the *Alberta Land Stewardship Act*. However, other than the order in which statutory plans are listed within the MGA, there is no legislated hierarchy of statutory plans.

The land use bylaw, the tool by which municipalities implement their statutory plans, is not required to align with the statutory plans. This flexibility empowers municipalities to exercise discretion and judgment in their land use decisions and operations. However, it may also create uncertainty for decision-makers and, in some cases, devalue the intended role of statutory plans.

C. Administrative decision-making processes

Municipalities establish their own planning policies by adopting statutory plans and land use bylaws. The policies expressed in statutory plans and land use bylaws are put into operation by subdivision and development authorities, whose members are appointed by municipalities. These authorities are responsible for decisions on subdivision and development permit applications. These types of administrative decisions may be appealed to subdivision and development appeal boards that are administered by the municipality or, in certain instances, to the Municipal Government Board that is administered by the Province.

Subdivision and development decisions should be consistent with statutory plans and comply with land use bylaws, the *Subdivision and Development Regulation*, and must comply with any regional plans approved under the *Alberta Land Stewardship Act*.

Decision-making processes

Subdivision application process

If a landowner or a developer wishes to subdivide land into more than one lot or to adjust boundaries, they must submit an application to the municipality's subdivision authority.

Subdivision authorities refer to statutory plans, land use bylaws, the *Subdivision and Development Regulation* and the MGA when reviewing a subdivision application and making a decision. For example:

- The MGA specifies when a subdivision application is required
- The *Subdivision and Development Regulation* identifies the referral agencies the subdivision authority should forward the application to
- The municipal statutory plans and land use bylaws contain the municipal policy direction on how land can be subdivided in the municipality

Decisions of the subdivision authority must be made within 60 days (unless an agreement with the applicant has been made to extend the timeline). The decision may be appealed to the subdivision and development appeal board or, if there is a provincial interest as identified in the *Subdivision and Development Regulation* in the matter, to the Municipal Government Board.

Development permit application process

Development authorities must use the land use bylaw, and follow provisions in the MGA and the *Subdivision and Development Regulation*, when reviewing applications for development permits. The land use bylaw:

- Divides the municipality into districts
- Prescribes uses and establishes development standards for each district
- Provides a process for issuing development permits

The MGA also outlines guidelines for non-conforming buildings, including the use of land, whether development permits can be issued, and how long they remain in effect. Decisions of the development authority must be made within 40 days (unless an agreement with the applicant has been made to extend the timeline), and the decision can be appealed to the subdivision and development appeal board.

Stop orders

A stop order is issued when the development authority directs that all activity relating to a matter must stop until requirements under that order are fixed.

The MGA empowers a development authority to issue stop orders when a development, land use, or use of a building doesn't comply with a land use bylaw, a development permit, subdivision approval, the MGA or the *Subdivision and Development Regulation*.

Permit timelines

The MGA sets a 40-day timeline for municipalities to issue development permits to applicants.

If a permit is not issued within 40 days, the application is considered refused.

If the person does not comply with the stop order, the municipality may take any action that is necessary to carry out the order. Some stop orders can be appealed to the subdivision and development appeal board.

Subdivision applications

The MGA specifies when subdivision applications must be submitted to the municipality. It also outlines the process for referring the application to other provincial and local authorities, as well as adjacent landowners.

The Subdivision and Development Regulation outlines what is required to be submitted as part of a subdivision application. The regulation also identifies the provincial or local authorities to which the municipality is required to circulate the subdivision application (e.g., Alberta Environment and Sustainable Resource Development, local health and school authorities), the setbacks that must be maintained from developments (e.g., abandoned wells, sour gas facilities, landfills, etc.), and the timelines for making decisions.

Site suitability factors

The subdivision authority must consider the suitability of the site when deciding the outcome of a subdivision application. The *Subdivision and Development Regulation* identifies site suitability factors, including:

- Topography
- Soil characteristics
- Storm water collection and disposal
- Potential for flooding
- Subsidence or erosion
- Accessibility to a road
- Availability of water supply
- Sewage disposal and solid waste disposal
- Lot sizes in relation to private sewage disposal systems
- Adjacent land uses
- Other considerations

Reconsidering decisions

The MGA lays out the timelines for subdivision or development authority decisions, as well as the subsequent timelines for filing an appeal of a decision. A subdivision or development authority cannot vary its decision; however, it can be appealed to the appropriate appeal board for a decision.

D. Land dedication (reserves)

Types of reserve land

When land is being developed, Alberta municipalities may require a portion of the land to be dedicated for roads, utilities or various types of reserve land.

There are five types, or designations, of reserves:

1. Municipal reserve
2. School reserve
3. Municipal and school reserve
4. Environmental reserve
5. Community services reserve.

There are specific requirements for how the land may be used, depending on the type of reserve.

Municipal reserve, school reserve, municipal and school reserves

These reserves can be used for a public park, recreation area, school board purposes or to separate lands that are used for different purposes (e.g., as a buffer).

At the time of subdivision, a total of 10 per cent of the original parcel (less the amount taken for environmental reserve) may be requested for these types of reserves. Under special circumstances (e.g. density), an additional five per cent may be requested.

Rather than asking for land, a municipality may require money in place of reserve land or choose to defer receiving the reserve land until future subdivision of the land takes place. The calculation of money in place of reserve land is based on either market value appraisal of the land or a value that is agreed upon between the developer and the subdivision authority.

Environmental reserve

A municipality may require land be provided as environmental reserve if it is a swamp, gully, ravine, coulee, a natural drainage course, unstable or subject to flooding, or adjacent to the bed and shore of any water body. This type of reserve must remain in its natural state or be used as a public park. There is no maximum amount of land that can be dedicated as environmental reserve. However, the MGA sets a minimum width for any environmental reserve land that borders a body of water.

Reserve restrictions

A subdivision authority cannot require land be dedicated for reserves if:

- Only one lot would be created from a quarter section.
- The land would be subdivided into lots of 16 hectares or more and used only for agricultural purposes.
- The subdivided land is 0.8 hectares or less.
- Another reserve was previously dedicated for the full amount owing from the original parcel.

Community services reserve

If a school board declares a reserve parcel (municipal reserve, school reserve or municipal and school reserve) is no longer required for school purposes, the land where the school building would have been located can be transferred to the municipality and dedicated as community services reserve. A community services reserve can be used for a:

- Public library
- Police station
- Fire station
- Ambulance services
- Non-profit day care
- Non-profit senior citizens or special needs facility
- Affordable housing
- Municipal facility that provides service directly to the public.

A community services reserve differs from other types of reserve in that the reserve designation does not occur during the subdivision process.

Changing land dedication

The MGA sets out a process for transferring land that has been dedicated but is no longer needed for school purposes, to the designation of community services reserve. Once this land is transferred, it can be used for affordable housing or any of the community facilities that may be developed on community services reserves. However, the transfer can result in a loss of land that can be used for park space.

The MGA also outlines how to remove the “reserve” designation from lands (other than environmental reserves). When a reserve designation is removed, the municipality or school board may sell or lease the land, which can also result in a loss of land that can be used for park space. As a result of the loss of green space, there may be instances where local residents in the vicinity are not supportive of the change.

The designation of “environmental reserve” cannot be removed. However, a council may, by bylaw, correct errors in its boundaries, change the use of environmental reserve land, or lease the reserve land for a term of up to three years. If the bylaw changes the use of the reserve or leases it, the land may no longer be limited to remaining in its natural state or being used as a public park. In effect, depending on the type of use established in the bylaw, the purpose for which the environmental reserve was dedicated may no longer be applicable.

Reserve land disposal

Except environmental reserves, the reserve land designations may be removed after giving notice and holding a public hearing. The land can then be used for any purpose or sold.

Accounting and collection of reserve monies

Under the MGA, when a payment of money in place of reserve land is a condition of a subdivision's approval, the monies collected must be accounted for separately and can be used only for the purposes associated with that type of reserve. For example, money in place of land for a municipal and school reserve must be allocated to pay for a public park or public recreation area or for school board purposes. Additionally, if the designation of reserve land is removed and the land is sold, the monies collected from the sale must be used only for the purposes for which the reserve was taken.

Servicing of reserve lands (municipal reserve, school reserve and municipal and school reserve)

The MGA does not require that servicing be supplied for reserve land that is dedicated for school purposes at the time of subdivision. This means that servicing the sites is the responsibility of the municipality or the school board and not the developer.

3. Is there a need for the MGA to continue to provide province-wide policies for land use (e.g. Land Use Policies)? If so, what types of land use policies should be standard across the province?

4. What, if any, additional powers do municipalities need to address the management of growth?

Land dedication (reserves)

5. Are the current provisions for reserves appropriate (e.g., categories, uses, amounts, timing of collection, etc.)? Why or why not?

6. Are there other processes, other than the subdivision process, through which the dedication of reserve land should occur? Why or why not?

7. Are the procedures for conversion of reserve land and disposal of reserve land appropriate? Why or why not?
 - What should the proceeds from the disposal of reserve land be used for?

8. What features or characteristics should land have, in order to qualify for designation as environmental reserve?
 - What should be the purpose of dedicating land as environmental reserve?
 - What should be done to ensure that environmental reserve easements are serving the purpose for which they are taken?

9. What should be the provisions respecting the collection and accounting of money collected through reserves?
 - Is the current method for determining the value of land (e.g. market value for un-serviced land or serviced land) for money in place appropriate? Why or why not?

10. Does the MGA identify the appropriate situations when, at the time of subdivision, reserves are not required? Why or why not?
 - Are there other situations when reserves should not be required?

11. Should school sites be serviced (e.g., water, sewer) at the time they are subdivided? If so, who should be responsible for servicing the site?

Administrative decision-making processes (land)

12. Do the current subdivision application requirements and processes meet the needs of proper land use planning and management (e.g., referral process, timelines, etc.)? Why or why not?

13. Does the current 40-day timeline for decisions on development applications adequately reflect the time that may be necessary to review the various components of a development application? Why or why not?

14. Is there a need to identify what the minimum requirements should be for a complete development permit application? Why or why not?

15. Should conditions attached to a development permit contain rationale? Why or why not?

16. What, if any, site suitability factors should a subdivision authority be required to consider in its review of a subdivision application? Why?

17. Should the MGA be more specific on the conditions attached to a subdivision approval decision? Why or why not?

18. Is there a need to allow subdivision authorities or development authorities to amend their decisions? Why or why not?

Statutory plans and planning bylaws

19. Should there be a legislated hierarchy of statutory plans and land use bylaws? Why or why not?
- To what extent should the land use bylaw be required to align with statutory plans?
 - Is there a need to ensure that planning authorities are bound to the plans and policies that have been established by a municipality? Why or why not?
20. Should the MGA provide for other types of statutory plans? If so, what other types of statutory plans should be considered?
- What matters should an intermunicipal development plan, municipal development plan, area structure plan or area redevelopment plan address? What matters should be optional? What matters should be mandatory? What should be removed?
21. Currently the MGA does not require a municipality to undertake projects identified within a statutory plan. Should this be amended? Why or why not?
22. Are the current land use bylaw requirements in the MGA appropriate? Why or why not?
- What matters should a land use bylaw contain? What matters should be optional? What matters should be mandatory? What matters should be removed?

23. Are the legislative requirements for statutory plan preparation in the MGA appropriate (e.g., population criteria)? Why or why not?
- Is there a need for the MGA to require a regular review of statutory plans? Why or why not?
24. Are intermunicipal development plans effective for managing planning between neighbouring municipalities? Why or why not?
- Should intermunicipal development plans be mandatory? Why or why not?
 - Is there a need for legislated provisions regarding the repeal of an intermunicipal development plan? Why or why not?
 - Are there other more effective methods? If so, what other methods?
25. What, if any, appeal mechanism should there be for development permits issued within direct control districts?

General comments

26. Are there any matters not covered in the questions above that you would like to highlight with respect to planning in Alberta?

Chapter 12: Relationships with others

Collaboration and public involvement

Collaboration among municipalities, businesses and citizens can bring extraordinary results.

This chapter outlines municipal relationships, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Municipal relationships and dispute resolution

Municipalities are strengthened by their relationships with:

- Neighbouring municipalities
- Businesses and industry
- Citizens
- Other levels of government

The MGA supports municipal relationships and cooperation primarily through natural person powers, through which municipalities may enter into agreements with other municipalities. Other ways municipalities may work together include:

- Joint service delivery (e.g., regional services commissions)
- Joint planning (e.g., intermunicipal development plans)
- Growth management boards (e.g. growth management plans)
- Mediation to solve disputes (e.g., annexations and intermunicipal disputes)

The MGA's emphasis on public participation and transparency means municipalities must maintain open and responsive relationships with the public. The MGA does not specifically address municipal relationships with business or industry groups.

Addressing disputes

Municipal disputes are addressed in a variety of ways.

Negotiation

Through discussion, parties bargain with one another to come to an acceptable agreement or decision.

Mediation

Mediation involves a neutral third-party mediator helping municipalities reach their own mutually acceptable agreement or decision. The MGA requires that mediation be attempted during:

- The annexation process
- Disputes involving authorizations by provincial resource/utility agencies and conflicting municipal bylaws
- Intermunicipal disputes arising from statutory plans or land use bylaws

Appeals

The Municipal Government Board hears disputes in a variety of cases, such as, but not limited to, an intermunicipal dispute, or when a specific provincial interest is needed in a subdivision appeal. Various appeals are also heard by subdivision and development appeal boards and assessment review boards. *Chapter 13 discusses the jurisdiction of these appeal boards in greater detail.*

Courts

The courts may hear appeals of municipal decisions (such as an appeal on the validity of a municipal bylaw) or further appeals of decisions made by the Municipal Government Board, subdivision and development appeal boards or assessment review boards.

Minister's powers

The Minister may be requested to assist with intermunicipal disagreements between municipalities and may conduct investigations, make a decision to settle the disagreement and implement decisions, or appoint a mediator to help resolve disputes.

Voluntary partnership

Through the MGA, municipalities have the option to voluntarily partner with neighbouring municipalities through a variety of mechanisms, including:

- Intermunicipal development plans
- Mutual aid agreements
- Regional services commissions
- Growth management plans

These mechanisms are particularly effective when municipal relationships are already strong.

Court involvement with disputes

Some types of disputes among municipalities, businesses, or the public can only be resolved through the courts. Examples include the disqualification of councillors or appeals of a municipality's calculation of off-site levies.

Mandatory collaboration

The Edmonton area's Capital Region Board is the only instance of mandatory regional collaboration. The regulation specifies membership, responsibilities and voting procedures.

Accessing the courts to resolve disputes can be expensive and time consuming, which may deter some from pursuing a resolution to an issue.

B. Public participation

The MGA aims to ensure citizens have the opportunity to be involved in municipal decision-making.

Members of the public express their thoughts and concerns about the actions of municipal administrations and decisions of municipal councils, to request information about council decisions, and to expect openness and transparency in administrative and political processes.

The MGA identifies many ways citizens may get involved in municipal decision-making processes.

Open meetings

Municipalities are required to hold all their council and committee meetings open to the public. The exceptions include instances when disclosure may be harmful to business interests, personal privacy, individual safety, public safety, etc., as defined in the *Freedom of Information and Protection of Privacy Act*. In these instances council will go “in-camera” to hold the discussion and will return to public forum once the discussion is completed.

Notices and the right to be heard

Citizens have the right to receive notice of certain matters before municipal council that affect them. This is an integral part of many decision-making processes outlined in the MGA, including statutory plan amendments and road closures. In most cases, notice is provided through advertising or written notices delivered directly to affected citizens.

During these decision-making processes, citizens also have the right to participate in discussions. Some of these processes relate to:

- A municipality’s formation, dissolution, amalgamation or annexation
- Public hearings for proposed bylaws or resolutions (e.g., land use bylaws)
- Appeals of subdivision or development applications.

Access to information

Citizens may request any information from their municipality. In some cases, the MGA requires the municipality to provide the information (e.g., salaries of chief administrative officer and councillors) and, in other cases, the public may need to file a request under the *Freedom of Information and Protection of Privacy Act* to receive the information.

Petitions

Citizens may petition council to:

- Allow for a vote on an advertised bylaw or resolution
- Create a new bylaw
- Amend or repeal an existing bylaw or resolution

Citizens can also petition the Minister to conduct an inquiry into the affairs of a municipality. The MGA specifies matters that can and cannot be petitioned, and the process for reviewing petitions that have been submitted to the municipal council or the Minister.

Some matters are not subject to petitions, including bylaws that deal with financial matters (with the exception of borrowing bylaws), road closures, planning bylaws, assessment and taxation (with the exception of local improvement taxes).

Public hearings

Public hearings are an opportunity for residents to make representations to municipal councils. The MGA does not give guidance to councils on how to use the information received in public hearings in their decision-making, and does not require councils to provide reasons for their decisions.

Lobbying

In 2007, the province introduced the *Lobbyists Act* to give Albertans public access to information regarding individuals and organizations seeking to influence government decisions, and to enhance transparency, openness, accountability and public trust in the provincial government. The *Lobbyists Act* relates to those engaged in lobbying the provincial government. There is no legislation to address lobbying by citizens or businesses to municipalities.

Petition requirements

Most petitions require signatures from eligible voters equal to at least 10 per cent of the municipality's population. Timelines vary for submitting a petition depending on the item being petitioned, however most petitions must be completed within 60 days.

Relationships with others: have your say

What do you think?

We want to hear from you. We are counting on you, our partners and experts on the needs of your local communities, to help conduct a thorough and effective review of the MGA.

We invite you to use this workbook survey to provide your insights into how we can improve the MGA. Feel free to answer as many questions as you like, depending on the topics that interest you.

Your feedback will shape the MGA to ensure it helps Alberta communities thrive well into the future.

Share your input on Chapter 12 by April 30, 2014, via one of several methods:

- **Online:** fluidsurveys.com/surveys/mga-review/workbook-chapter-12
- **PDF:** Complete questions within this entire PDF and click “Submit” on the bottom of the last page.
- **Email:** Send your responses to mga.review@gov.ab.ca.
- **Mail:** MGA Review Team, 16th Floor, Commerce Place, 10155 – 102 Street, Edmonton, Alberta T5J 4L4.

Municipal relationships and dispute resolution

1. What additional provisions, if any, should the MGA incorporate to help foster intermunicipal cooperation and partnerships?
 - What mandatory provisions, if any, should exist in the MGA for municipal cooperation? Why?

2. In regions that include urban centres, what is the appropriate balance between the interest of individual municipalities with the metropolitan interest as a whole?
 - When, if at all, would it be appropriate to establish a growth management board?
 - What, if any, powers should lay within the jurisdiction of a growth management board?

3. What additional provisions, if any, should be included within the MGA to clarify requirements related to mediation or negotiation in relation to the annexation process, intermunicipal disputes, or other municipal matters?

4. What other appeal mechanisms, if any, should be considered so that an appeal to the courts is not the only avenue of recourse available for disputes or appeals on matters such as disqualification of councillors, off-site levies, or the validity of disputed bylaws?

Public participation

5. How should the expectations of municipalities and citizens for public engagement be clearly defined?
 - Should municipalities be required to prepare public participation plans? If so, what would these plans contain?

6. What should be the statutory requirements for notifications (e.g. method of notice, timing, technology)? Who should set those requirements?

7. Is the current petition process an effective and practical tool for public participation (e.g. scope, contents, population requirements, timing, size of municipality)? If not, how could it be improved?

8. Are the current MGA provisions for the public hearing and decision process adequate for hearing and considering the concerns of the public? If not, what could be changed and why?

9. Should the MGA contain provisions regarding lobbying by the public and industry to municipalities? If so, what parameters should be established?

General comments

10. Are there any matters not covered in the questions above that you would like to highlight with respect to relationships with others?

Chapter 13: Decision making authorities

Who makes planning decisions for municipalities

The residents of Alberta communities hold municipal authorities, agencies, boards and commissions responsible for making informed, effective decisions on their behalf.

This chapter outlines municipal decision-making authority, as identified by the *Municipal Government Act* (MGA). Please provide your feedback on this topic by answering the questions at the end of the chapter.

A. Planning authorities

Municipal planning authorities review subdivision and development applications and issue decisions that reflect the planning policies established by the municipality through their statutory plans and land use bylaws.

Within the MGA, there are several types of planning authorities that can be established by municipal council, including:

- Subdivision and development authorities
- Intermunicipal service agencies
- Municipal and intermunicipal planning commissions
- Subdivision and development appeal boards
- Intermunicipal subdivision and development appeal boards

Subdivision and development authority

All municipalities must establish a subdivision authority and a development authority by bylaw. These roles may be filled by:

- Council members (subdivision authority only)
- A designated officer
- A municipal planning commission
- Any other person or organization

The subdivision authority exercises the subdivision powers and duties for the municipality, which includes reviewing and issuing decisions on subdivision applications and ensuring that any application approval conditions have been carried out by the applicant. The development authority exercises the development powers and duties for the municipality, which includes enforcing the regulations within a municipality's land use bylaws. This enforcement is done by reviewing and issuing development permits and by issuing stop orders when developments are in contravention of the land use bylaw.

Intermunicipal service agency

A municipality may delegate the powers, duties or functions of a subdivision or development authority to an intermunicipal service agency. Municipalities establish this type of agency to provide services across a region. It may be either a regional services commission or operated by another municipality.

Municipal and intermunicipal planning commission

A municipality may establish a municipal planning commission or an intermunicipal planning commission to exercise subdivision and development powers. The bylaw that establishes these commissions identifies its function and duties.

An intermunicipal planning commission bylaw authorizes municipalities to enter into an agreement with each other and includes procedures for the commission's dissolution.

Subdivision and Development Appeal Board and Intermunicipal Subdivision and Development Appeal Board

A municipality must establish either a subdivision and development appeal board or an intermunicipal subdivision and development appeal board, or establish both boards. The bylaw that establishes the appeal board(s) must describe the procedures and functions of the board(s) and any committees (if established). Decisions made by the committees are considered decisions of the board.

These boards hear all appeals of development permit decisions, and any appeals of subdivision application decisions that are outside the jurisdiction of the Municipal Government Board, as well as stop orders.

An appeal board may not include a municipal employee, a person involved in subdivision or development application or decisions, or a member of a municipal planning commission.

Councillors of a municipality may not form the majority of the subdivision and development appeal board members hearing an appeal, and councillors from one municipality may not form the majority of the intermunicipal subdivision and development appeal board members hearing an appeal.

The appeal boards are not bound by the court's laws of evidence, which means they can accept any oral or written evidence, whether admissible in court or not. However, the boards must keep records of their proceedings and are subject to the rules of procedural fairness and natural justice.

Alberta Land Stewardship Act

All decisions issued by planning authorities must comply with any applicable *Alberta Land Stewardship Act* regional plan.

Having councillors serve as planning authorities helps ensure quorums are met if the municipality is struggling to find citizens willing to serve on the subdivision and development appeal board or other planning bodies. However, there is the potential that a councillor may be perceived to make a decision based on reasons other than the policies that have been established through the municipality's planning documents.

Subdivision and development appeal board training

Unlike assessment review boards, the MGA does not require subdivision and development appeal board members to receive mandatory training, although a municipality may request training from Municipal Affairs. Subdivision or development appeals may be challenging and complex, depending on the nature of the appeal.

Bylaws establishing planning authorities

Planning authorities that are established by municipalities are done so through bylaw. For example, to establish a subdivision and development appeal board, the MGA requires that the bylaw must also specify the functions and duties of the board (e.g., roles, responsibilities, powers, procedures), but does not provide further detail on bylaw contents. As a result, variations in subdivision and development appeal board bylaws may lead to different interpretations and inconsistency in their application province-wide.

B. Municipal Government Board

The Municipal Government Board is a provincially established quasi-judicial appeal body that handles some types of disputes where there is a provincial or regional interest.

Municipal Government Board jurisdiction

The jurisdiction of the Municipal Government Board is to hear appeals or disputes on:

- Linear property assessments
- Equalized assessments
- Proposed annexations
- Intermunicipal conflicts related to statutory plans or land-use bylaws
- Certain subdivision proposals where there is a provincial interest
- Conflicts between municipal bylaws and authorizations granted by the Alberta Utilities Commission, the Natural Resources Conservation Board, or the Alberta Energy Regulator
- Any issue referred by the Lieutenant Governor in Council or the Minister

Municipal Government Board members also preside at hearings of composite assessment review boards that are administered by municipalities. These boards hear property assessment complaints related to multi-dwelling residential properties and non-residential properties.

The Municipal Government Board does not have jurisdiction over a matter unless it is included in the Municipal Government Board's empowering legislation. In some matters of Municipal Government Board jurisdiction, such as subdivision appeals or disputes involving regional services commissions, the board's jurisdiction may not be completely clear.

Municipal Government Board organization

Under the MGA, the Deputy Minister of Municipal Affairs is the administrator of the Municipal Government Board, although in practice, the Deputy Minister always delegates administrative authority to the designated chair of the Municipal Government Board. Municipal Government Board members are appointed by Cabinet, on the Minister's recommendation.

Member qualifications

The MGA requires that for assessment matters, the member of the Municipal Government Board panel cannot participate within the hearing unless they are qualified to do so. In order to be considered qualified the Municipal Government Board member(s) must successfully complete a training course in basic assessment principles and administrative law. Members are required to successfully complete a refresher training course every three years. The MGA does not specify member qualifications for other matters within the Municipal Government Board's jurisdiction.

Panels of the board

At a Municipal Government Board appeal hearing, Municipal Government Board panels must consist of three or more members, as chosen by the administrator. Currently, the Municipal Government Board has 49 appeal board members from which to choose panel members. A majority of a panel constitutes a quorum and the majority decision of a panel is the decision of the board. Sometimes, in assessment matters, Municipal Government Board members sit as one-member panels.

Municipal Government Board procedures

The Municipal Government Board has slightly different procedures for each matter within its jurisdiction, as the current MGA sets out different procedural requirements for each matter. Generally, there are filing requirements and timing requirements for each matter that comes before the Municipal Government Board. Under the MGA, the Municipal Government Board has several general powers.

Postponement and adjournment

A party to the appeal who has been notified of the hearing may request a postponement or adjournment, and the Municipal Government Board may grant or deny the request.

Appeal hearing proceedings

The Municipal Government Board can review or rehear a matter on a previous decision or before making a decision and may correct any technical irregularities within its decisions.

Evidence

The Municipal Government Board may require persons giving evidence to do so under oath and is not bound by the rules of evidence or court proceedings.

Hearing procedures

The Municipal Government Board makes its own procedural rules, and specific sets of procedural rules are applied to:

- Subdivision appeals
- Linear and equalized assessment complaints
- Proposed annexations
- Intermunicipal disputes
- All other matters

Other procedures

The Municipal Government Board may also:

- Require a person to attend a hearing or submit a required document
- Upon application by one of the parties for costs related to delays or frivolous appeals, have the discretion to determine if costs must be paid and how they are to be registered or split among the parties.

Municipal Government Board decisions

Decisions of the Municipal Government Board are issued in writing within 15 days to one month, depending on the type of appeal, from the conclusion of the hearing and are sent to all those affected and to the municipality in which the property is located. Municipal Government Board decisions must comply with *Alberta Land Stewardship Act* and the Land Use Policies.

Managing confidential information

Sometimes during a Municipal Government Board hearing, a person may wish to bring confidential documents (e.g., income or business-related documents) as evidence for the Municipal Government Board to consider in making a decision. However, parties often produce these documents only if the Municipal Government Board is able to seal and keep them confidential. If the Municipal Government Board is unable to assure to those parties that the documents can be kept from the public record, those documents are not typically produced by the parties.

The Municipal Government Board will seal documents if requested and if it is appropriate to do so. However, all Municipal Government Board records are subject to *Freedom of Information and Protection of Privacy Act* requests. Under *Freedom of Information and Protection of Privacy Act*, if an application is made

for information to be disclosed on a matter, an analysis is required to determine whether any documents filed with the Municipal Government Board should be produced, whether or not they are sealed. By contrast, if a court determines that information should be kept confidential, it may seal documents and bar public access, in which case the documents are not subject to a further review under *Freedom of Information and Protection of Privacy Act*.

C. Planning and intermunicipal appeals

The MGA aims to help the public become involved in municipal decision-making processes. One avenue is through the planning-related appeals for residents and neighbouring municipalities.

Under the MGA, each municipal council must establish a Subdivision and Development Appeal Board to hear appeals on subdivision decisions, development permit decisions and stop work orders. Currently in Alberta, there are hundreds of subdivision and development appeal boards. Some subdivision appeals and all intermunicipal disputes are heard by the provincially established Municipal Government Board.

Decisions issued by subdivision and development appeal boards and the Municipal Government Board on subdivision and development appeals must:

- Comply with regional plans adopted under the *Alberta Land Stewardship Act* and be consistent with provincial land use policies
- Have regard to municipal statutory plans

The subdivision and development appeal boards and the Municipal Government Board also consider the *Subdivision and Development Regulation* in making their decision, and they may amend the original subdivision or development authority decision, or substitute a decision of their own. Decisions of the boards may be appealed to the Court of Appeal on a question of law or jurisdiction.

Subdivision appeals

Jurisdiction

Both the subdivision and development appeal board and the Municipal Government Board hear subdivision appeals. The Municipal Government Board handles subdivision appeals where there is a provincial interest, such as proposals involving lands within the Green Area of the Province (as defined by the *Public Lands Act*) or lands within a certain distance of a highway, a water body, or a sewage or waste management facility. All other subdivision appeals are handled by the subdivision and development appeal board. In some instances, references to provincial interest are difficult to apply and interpret, and it may be unclear as to which board should hear an appeal.

Right to appeal

The decision of a subdivision authority can be appealed by the applicant, any government department who received a notice of the subdivision application, the council of the municipality, or, in some cases, a school board. Adjacent landowners do not have the right to appeal subdivision application decisions.

Timelines

The MGA sets out the timelines that must be followed for subdivision appeals and hearings:

- **Application:** A subdivision authority has 60 days from the date an application is received to issue a decision or to enter into an agreement with the applicant to extend this timeline if necessary. If its decision is not issued within this time period, the application is considered to be refused. A subdivision appeal must be received by the subdivision and development appeal board or Municipal Government Board within 19 days of the applicant's receipt of the written decision of the subdivision authority (includes five days for mailing).
- **Notification:** Once an appeal has been filed, written notice of the hearing must be given by the appeal board (at least five days prior to the hearing) to the subdivision applicant, the subdivision authority, any affected adjacent municipality, and any school board and government departments that were given a copy of the application. Adjacent landowners must also be notified, regardless of whether they were notified at the application stage.
- **Hearing:** If the appeal lies with the subdivision and development appeal board, the hearing must be held within 30 days of receiving the notice of appeal and a decision must be issued within 15 days of concluding the hearing. If the appeal lies with the Municipal Government Board, the hearing must be held within 60 days of receiving a notice of appeal and a decision must be issued within 15 days of concluding the hearing. At the hearing, the appeal board must hear from those groups who were notified of the appeal.

Development appeals

Jurisdiction

All appeals of development authority decisions are heard by the subdivision and development appeal board. Appeals cannot be made on development permits issued for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted. The subdivision and development appeal board may issue development permits that are not consistent with the land use bylaw if the proposed development does not interfere with the amenities of the neighbourhood, affect the use, enjoyment or value of neighbouring parcels of land, and if the proposed development conforms to the use of the land in the municipality's land use bylaw.

Right to appeal

An appeal can be made by the development permit applicant, a person affected by a stop order issued under the land use bylaw or by any other person affected by a decision or development permit issued by the development authority (including adjacent landowners).

Timelines

The MGA sets out the timelines that must be followed for development appeals and hearings:

- **Application:** A development authority has 40 days from the date a development permit application is received to issue a decision or an extended time under agreement with the applicant. If its decision has not been issued within that time, the permit is considered refused. A notice of the appeal, containing reasons, must be filed with the subdivision and development appeal board within 14 days of the decision.
- **Notification:** Once an appeal is filed, a written notice of the hearing must be given by the appeal board (at least five days prior to the hearing) to the appellant; to the development authority whose order, decision or permit is being appealed; to owners required to be notified under the land use bylaw; as well as to any other person the board considers to be affected by the appeal.
- **Hearing:** At the hearing, the subdivision and development appeal board must hear the appellant, the development authority, and any person who was given notice of the hearing or who claims to be affected by the decision and who the board agrees to hear, or a person acting on behalf of these people. The board must hear the appeal within 30 days of receiving the notice to appeal and must give its decision in writing, with reasons for the decision, within 15 days after the hearing.

Intermunicipal Appeals

Right to appeal

Intermunicipal planning disputes are heard by the Municipal Government Board. If a municipality is of the opinion that a statutory plan or land use bylaw adopted by an adjacent municipality may have a detrimental effect on it, it may appeal the matter to the Municipal Government Board.

Timelines

A municipality initiates an appeal by filing a notice of appeal and statutory declaration with the Municipal Government Board within 30 days after the adoption, by the adjacent municipality, of the bylaw to adopt or amend a statutory plan or land use bylaw. When the Municipal Government Board receives the notice, the statutory plan or land use bylaw that is being appealed is suspended until a decision is made. Once the notice is received, the Municipal Government Board must commence a hearing within 60 days, and give a written decision within 30 days of closing the hearing.

Decision

During the hearing, the Municipal Government Board must hear from the municipality making the appeal, the municipality against whom the appeal is launched, and the owner(s) of the land that is the subject of the appeal. The Municipal Government Board determines whether the disputed matter is detrimental to the municipality that made the appeal and can dismiss the appeal or can order the adjacent municipality to amend or repeal the statutory plan or land use bylaw. If the Municipal Government Board amends or repeals the statutory plan or land use bylaw, regular notice and public hearing requirements do not apply.

Court of Appeal

Decisions of the Municipal Government Board and the subdivision and development appeal board may be further appealed to the Court of Appeal on a question of law or jurisdiction. An application for leave to appeal must be filed within 30 days after the board's decision is issued. The notice of the application for leave to appeal must be given to the appeal board and any other persons that the court directs. On hearing the application and those persons who are affected by the application, the court may grant leave to appeal if it determines that the appeal involves a question of law and has a reasonable chance of success.

The court may confirm, vary, reverse or cancel the original decision. If the decision is cancelled, the matter is referred back to the Municipal Government Board or the subdivision and development appeal board, and the relevant board must rehear the matter in accordance with the direction given by the court. If the court finds the only ground for appeal is a technicality, the court may deny the appeal, or confirm the decision of the appeal board and order the decision to take effect on the terms determined by the court.

Filing and transcripts

The MGA requires subdivision and development appeal boards and the Municipal Government Board to keep a record of proceedings, which may be in summary format. When a leave application to the Court of Appeal is commenced, the MGA states that the court may direct that a transcript of the board's hearing be provided for the court to determine the application. A summary of a subdivision and development appeal board or Municipal Government Board hearing can be considerably different and less detailed than a transcript of a hearing.

Detrimental effect on planning bylaws

The MGA specifies that an adjacent municipality can file an appeal to the Municipal Government Board, if they determine that a statutory plan or land use bylaw adopted by an adjacent municipality may have a "detrimental effect" upon their municipality. However, the term "detrimental effect" is not defined in the MGA, which can lead to misinterpretation and confusion on when it is appropriate for a municipality to appeal another municipality's planning bylaw.

D. Assessment complaints and appeals

The assessment process determines property values for property taxation purposes. The MGA sets out a complaints system for property owners who have concerns about their property assessments and provides property owners the ability to ask for an independent review of their property assessment.

The current assessment complaints and appeals system came into effect in January 2010 following a major review and consultation in 2008-2009. Alberta transitioned from a two level assessment appeal structure to become the only jurisdiction in Canada with a one-level complaint structure.

Assessment review boards

While there is a one level complaint structure, there are three bodies that hear complaints, dependent on the type of property being assessed.

1. Local Assessment Review Boards

These boards hear complaints about assessments of residential property with three or fewer dwelling units, farm land, and any tax notice other than a property tax notice. A local assessment review board panel is made of either one or three members appointed by a municipal council

2. Composite Assessment Review Boards

These boards hear complaints about assessments of residential property with four or more dwelling units, non-residential property and all regulated properties, except for farm land and linear. A composite assessment review board panel contains two members appointed by a municipal council, and one member appointed by the province (who is a member of the Municipal Government Board). A composite assessment review board panel may consist of one member who must be the provincial member. A merit hearing panel must be three members.

3. The Municipal Government Board

The Municipal Government Board hears complaints about linear property assessments and equalized assessments. A Municipal Government Board panel has three members drawn from a pool of eligible members.

In order for a member of an assessment review board, or a panel of the Municipal Government Board to be qualified to participate in a hearing, the member must successfully complete a training course in basic assessment principles and administrative law. Members are required to successfully complete a refresher training course every three years.

If there is an error in law or jurisdiction made by a board, the decision may be appealed to the Court of Queen's Bench of Alberta. All of these boards follow nearly identical rules of procedure set out by MGA regulations; they specify timelines for complaints and hearings, rules for disclosure of evidence and decision writing.

Regional Assessment Review Boards

To promote municipal collaboration and cooperation, the MGA also empowers municipalities to establish regional assessment review boards, which have the responsibility of either the local assessment review board or composite assessment review board but serve a number of neighbouring municipalities. Examples in the province include the Red Deer Regional Assessment Review Board and the Capital Regional Assessment Services Commission Assessment Review Board. Regional assessment review boards allow municipalities to share the costs and the resources required to conduct assessment review board hearings.

Prior to 2010, assessment complaints were heard by a municipal assessment review board with the option to appeal the decision to the Municipal Government Board. Since the 2010 complaint structure came into place, assessment complaints are heard once by the municipal local assessment review board or composite assessment review board with the option to appeal to the courts on a matter of law or jurisdiction.

Preliminary and procedural matters

In 2010, a new assessment complaints and appeals system took effect with new preliminary and procedural standards with the intent of making the assessment complaints process more efficient while still preserving fairness and equity in the complaints system. The new provisions include a longer complaint-filing period, a requirement to provide more information when making a complaint, disclosure timelines, rules for adjournments and postponements, and costs against parties for abusing the process. In addition to those legislated standards, some municipalities set their own procedures specific to their boards.

3. Is there a need for the MGA to address potential conflict of interest in regard to the membership and decisions of subdivision and development appeal boards? Why or why not?

4. Should the MGA have minimum standards (e.g., training, credentials) in place for subdivision and development appeal boards? Why or why not?
 - If so, what should be the minimum standards and how should the standards be monitored or enforced?

5. Should the MGA set out specific requirements for the content of bylaws that establish planning authorities? If so, what should they be?

Municipal Government Board

6. Should any adjustments be made in the MGA in regard to those matters falling within the jurisdiction of the Municipal Government Board? Why or why not?
 - What types of mechanisms should be in place to ensure that subdivision appeals are being heard by the appropriate appeal authority?

7. Should the MGA define qualifications for Municipal Government Board members? Why or why not?

8. What, if any, adjustments should be made in the MGA in regard to the details, or level of detail, set out for Municipal Government Board procedures related to:
- Postponement of a hearing;
 - The size of the panels that hear appeals;
 - The handling of confidential information;
 - Swearing in the proceedings; or,
 - Other board processes?

Planning and intermunicipal appeals

9. Does the subdivision and development appeal board have sufficient scope of authority to adequately adjudicate and administer (e.g. penalties, written submissions) the broad range of appeals that are presented to them? If not, what changes should be made?

10. What types of planning appeals should go to a municipal or provincial appeal body?
- What types of mechanisms should be in place to ensure that planning appeals are being heard by the appropriate appeal body?

11. Should the term “detrimental effect” be clarified in the MGA? Why or why not?

12. What should constitute an “affected party” under the MGA?
- Who should have the right to be notified on appeals?

13. What are appropriate timelines for the appeals (e.g., for filing the appeal, notifying affected parties, hearing the appeal, and issuing the decision)?

14. What format would be appropriate to record appeal hearings? How can this be balanced with what is required by the courts for hearing appeals?

Assessment complaints and appeals

15. Is a one-level complaint structure appropriate? Why or why not?

16. Should there only be one board to hear all assessment complaints? Why or why not?

- If not, which boards (local assessment review board, composite assessment review board or Municipal Government Board) should hear assessment complaints for each property type (residential with 3 or fewer dwelling units, residential with 4 or more dwelling units, farm land, non-residential, machinery and equipment, linear and equalized)?
- What is the necessary scope and nature of provincial oversight for assessment review boards?

17. What qualifications, pre-requisites or training should the MGA specify as mandatory for assessment review board members?

- Should any provisions be added to the MGA to address potential conflicts of interest on assessment review boards and the Municipal Government Board?

18. What preliminary matters or procedural standards need further attention (e.g. postponements, adjournments, rejecting complaints)?
- What changes, if any, should be made to preserve a mass appraisal standard of review during the complaint process?
 - Are the timelines for assessment complaints appropriate? Why or why not?

General comments

19. Are there any matters not covered in the questions above that you would like to highlight with respect to decision making authorities?

Briefly, about you

Which stakeholder group or groups do you consider yourself to be part of?

Elected official

Public/citizen

Administrator/professional

Business/industry

Association/organization

Other:

What are the first three characters of your postal code?

Do you identify yourself more as rural or urban?

Rural

Urban

Prefer not to say

Do you have any feedback on this workbook or any other part of the MGA Review? We welcome your comments.

Thankyou!

We appreciate you taking the time to give feedback on the Municipal Government Act and contribute your ideas to the province-wide discussion about the future of municipalities. To submit your input towards the MGA Review, click Submit below.

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