

Implementation Fact Sheet

Amendments to the Municipal Government Act, 2015-17

Municipally Controlled Corporations

Legislation	Municipal Government Act (MGA) ^o
Regulation	Municipally Controlled Corporations Regulation (MCCR)
Category	Governance
Section Numbers	s. 14(1)(d), s. 47.1, s.73, s.75.1 – s.75.5, s. 241(d), s. 250(2.1)(3), s. 602.09

Previous MGA provisions:

Minister approval was required before a municipality (or group of municipalities) could establish or obtain control of a for-profit corporation (also known as a municipally controlled corporation [MCC]). The application requirements included basic information on the corporate structure; scope of service; cost to establish; its assets, financial statements and budgets; corporate sustainability; and profit return to shareholders.

What's changed?

Municipalities will have greater autonomy regarding the establishment of a MCC as ministerial approval is no longer required. The decision to establish a MCC resides with municipal council through passage of a council resolution.

MGA s.75.1(2)

The *Municipal Government Act* and the *Municipally Controlled Corporations Regulation* set out several requirements for council to follow, which include increased public engagement and transparency.

What do municipalities need to know?

A municipality, by itself or with other municipalities, may establish a MCC provided council is satisfied that:

- 1) the MCC will carry on business for one of the municipal purposes set out in Section 3 of the *MGA* (provide good government, provide services, develop and maintain safe and viable communities.);
- 2) the MCC will provide a service or benefit to residents of the municipality; and
- 3) the profits and dividends of the MCC will provide a direct benefit to the residents of the municipality.

MGA s.75.1(2)

Before council passes a resolution to establish a MCC, the council must consider a business plan and hold a public hearing. **MGA s.75.1(3)(4)**

A municipality must notify the Minister of Municipal Affairs within 60 days of the council resolution and must include a copy of the resolution. **MCCR s.2**

Business Plan

The business plan must address the following matters:

- Costs relating to establishing the MCC.
- The value of assets that are to be transferred to the MCC.
- Cash flow projection for the next three years of the MCC's operation.
- Financial statements for operating and capital budgets.

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- The services the MCC intends to provide.
- The names of the shareholders.
- The geographic locations in and outside Alberta the MCC intends to provide services.
- Any risks in controlling the MCC.
- Information showing the MCC will not be dependent on shareholders for its operations.
- The municipality's financial viability of controlling the MCC.
- A projected rate structure if the MCC intends to provide utility services.
- A market impact analysis.

MGA s.75.1(4) MCCR s.4

Public Hearing

For the purpose of a public hearing, the municipality must disclose:

- the services the MCC intends to provide;
- the names of the shareholders;
- the geographic locations in and outside Alberta the MCC intends to provide services;
- a projected rate structure if the MCC intends to provide utility services; and
- the market impact analysis, if any, contained in the business plan.

This information must be made available to the public no less than 30 days prior to the public hearing. The public hearing must be held, and notice given of it, as per Sections 230 and 606 of the MGA. **MGA s.75.1(3) MCCR s.3**

Unanimous Shareholder Agreement

The council of the municipality must adopt, by resolution, a unanimous shareholder agreement. **MGA s.75.1(2) MCCR s.5**

It is recommended a municipality seek legal advice for this and other requirements.

What changes apply to MCCs once established?

Financial Statement and Other Reports

The shareholder municipal council must ensure the MCC prepares annual financial statements (according to section 279 of the MGA) including a supplementary disclosure of the nature and amount of financial assistance (including transfers of money or other assets, loans and loan guarantees) provided to the MCC by any shareholder, the province, or the federal government. The annual financial statements and other reports must be made available for public inspection. **MGA s.75.2(1) MCCR s.6**

Material Changes

If there is a proposed material change to the business operations, including a change to its governance structure or the types of services offered, the council must notify the residents of the proposals and provide an opportunity for residents to make representations. **MGA s.75.3**

The MCCR further defines material change, the information needed to be made available to the residents, associated timelines, and the engagement and reporting processes. **MCCR s.7**

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Public Utilities Act

Part 2 of the *Public Utilities Act* does not apply in respect of a public water utility that is owned or operated by a MCC and provides a utility service within the boundaries of a municipality that controls the MCC. This ensures MCCs that provide water utility services are treated the same as a municipal utility service. This includes the ability for the council to set the utility rates and enter into agreements to provide utility services without getting the approval of the Alberta Utilities Commission. **MGA s.75.4(1)**

Exemptions

Specific MCCs, and their subsidiaries, can be exempted from these requirements. **MCCR s.8**

When does this change take place?

- This change is effective July 1, 2018.



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