



JOINTLY INITIATED AMALGAMATION REGULATION

DISCUSSION PAPER – SEPTEMBER 2016

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Introduction

The *Municipal Government Act (MGA)* is the legislation which governs how local municipal governments (municipalities) in Alberta operate and provide services to the community. The current *MGA* was introduced in 1995 following an extensive review and the 1995 *MGA* was considered to be a model for municipal legislation in Canada. However, after nearly 20 years, it was determined the *MGA* should be revisited in order to meet the changing needs of Alberta's communities. An extensive review and public consultation took place throughout 2014.

Bill 20 was passed by the Legislature in the spring of 2015 to address several issues that received broad support from the rural and urban municipal associations, the cities of Calgary and Edmonton, and business and industry associations representing key economic sectors. It is noted that most of the Bill 20 amendments have not yet been proclaimed and are therefore not yet in effect. Bill 20 included new provisions for regulation making authority that enables municipalities to jointly initiate amalgamations.

Bill 21 was introduced in the Legislature in the spring of 2016 to address other key issues affecting municipalities. Bill 21 includes several important developments with respect to intermunicipal collaboration, including changes to the purpose of municipalities, mandating the development of intermunicipal collaboration frameworks and growth management boards, and intermunicipal development plans for most municipalities.

The Minister of Municipal Affairs led a series of engagement sessions with municipal stakeholders and the public from May to July 2016 and the feedback gathered is being analyzed for adjustments to Bill 21 based on the feedback for the fall 2016 legislative session.

Purpose of this Discussion Paper

This discussion paper seeks your input into the development of a regulation respecting the joint initiation of amalgamation proceedings by two or more municipal authorities. Your comments and observations will be important in ensuring that the jointly-initiated amalgamation procedures regulation accomplishes its intended objectives.

Background

What is amalgamation?

Amalgamation is the legal process whereby two or more existing neighbouring municipalities are combined into one new municipality. This typically requires the municipalities that wish to amalgamate to have contiguous (or common) boundaries.

What other restructuring processes exist?

There are several municipal restructuring processes established in the *MGA*: formation, change of status, change of name, amalgamation, annexation and dissolution.

Annexation is the legal process whereby the boundary of a municipality is expanded, typically to accommodate growth. In an annexation, the lands in an adjacent municipality are transferred to the annexing municipality. Annexation changes the local governance for an area from one municipal authority to another, but does not change the ownership of the lands affected.

Dissolution is the legal process whereby an existing municipality is unincorporated to become a hamlet in an adjacent municipality that is responsible for the local governance of the area.

Current Process of Initiation of Amalgamation

The *Municipal Government Act* Part 4 Division 8 Amalgamation (Appendix A) currently allows two ways that amalgamation may be initiated: by a municipal authority (municipality) or by the Minister.

When a municipality initiates amalgamation, it must give written notice of the proposed amalgamation to:

1. the other municipalities (one or more) with which the initiating municipality proposes to amalgamate;
2. the Minister; and
3. any local authority that the initiating municipality considers would be affected by the proposed amalgamation.

Mandatory vs. Voluntary Amalgamation

The *MGA* sets out the processes that municipalities undertake in advance of consideration of a municipal amalgamation by the Minister and Cabinet.

Currently one municipality may initiate amalgamation on one or more other municipalities without prior discussion regarding the benefits and drawbacks of the proposed amalgamation between the municipalities; and it is mandatory that the municipalities negotiate in good faith with the initiating municipality even though they may not be in favour of the proposed amalgamation.

Since 1995, the Government of Alberta has approached municipal amalgamation as a voluntary process and has only approved amalgamations where there was support from all municipalities involved. This is a notable difference in approach from some other provinces in Canada, where there have been challenges in recent years with mandatory amalgamations. Through the *MGA* Review, the Government of Alberta has re-confirmed its approach to amalgamation as voluntary and led by municipalities.

Stakeholders have indicated that the long-term sustainability and viability of municipalities in the province is important and amalgamation could be a collaborative and proactive solution to municipal viability concerns in Alberta. However, some have further suggested that the existing process for municipal amalgamation in the *MGA*, which requires one municipality to initiate amalgamation proceedings with one or more others, may decrease the likelihood of successful amalgamations because of the potentially adversarial nature of the process.

Municipalities have expressed a need for a more equitable, collaborative process that removes the requirement for one municipality to manage the process, which can create perceived or real power dynamics within the amalgamation negotiation phase of proceedings. They have also indicated that when there is a high degree of agreement by all parties at the initiation phase, that the Minister should allow for a more streamlined process to expedite amalgamation. This issue was addressed in Bill 20 with a new regulation making authority to establish a jointly initiated municipal amalgamation process.

Examples in Alberta

In the last 20 years, Municipal Affairs has been aware of eight separate groups of municipalities that have entered into discussions about amalgamation or other regional governance options, with three of these groups entering in the discussions more than once over this period. In some of these cases, the legislated process was initiated for formal negotiations. In other cases, municipalities began informal discussions but did not formally notify the Minister. Since 1995, three municipal amalgamations have occurred: City of Cold Lake (1995), Town of Drumheller (1997), and Lac La Biche County (2007).

Table 1: Amalgamations: 1995 - 2015

Year of Amalgamation	Amalgamated Municipalities		Annexed Land from	New Municipality
1997	Cold Lake	Grand Centre	MD of Bonnyville	Cold Lake
1996	City of Drumheller	MD of Badlands		Town of Drumheller
2002, and 2007	Town of Lac La Biche	Lakeland County		Lac La Biche County

Table 2: Regional Governance and Amalgamation Discussions Not Resulting in Amalgamation: 1995 - 2016

Year of Initiation	Municipalities		Notes
1996 and 2014	Town of Barrhead and MD of Barrhead		Amalgamation negotiation terminated, change to recreation agreement negotiation
2001 and 2005	Towns of Turner Valley and Black Diamond		Currently (2016) considering feasibility of amalgamation
2003	Town of Athabasca	Athabasca County	
2007	County of Two Hills	Town of Two Hills, Villages of Derwent, Myrnam, and Willingdon	Derwent dissolved in 2010 and Willingdon is currently undergoing a viability review
2010	Summer Villages of Crystal Springs, Norris Beach, and Grandview		

An important consideration in developing this regulation should be what pre-conditions have existed in the examples of successful amalgamation. Anecdotal evidence suggests amalgamation is successful when there is a high degree of trust among all participants, and there are apparent common interests and mutual benefits to proceeding.

Amalgamation Principles, Standards and Criteria in the MGA

Section 76 of the MGA (Appendix E) allows the Minister of Municipal Affairs to establish principles, standards and criteria that are to be taken into account in considering amalgamation and other forms of municipal restructuring. A set of restructuring principles was approved by the Minister in 2001 for the formation, amalgamation and dissolution types of restructuring.

The restructuring principles cite that:

- The amalgamation process is appropriate where two or more municipalities are joined to form a new municipal government united with a new council and administrative structure that is significantly changed from the pre-existing structures of the affected municipalities;
- Amalgamation will be considered if there are demonstrable advantages to the residents of the affected municipalities and if the ongoing financial, political, and operational viability of the amalgamated municipality is likely.

A copy of Ministerial Order No. L:077/01 can be found in Appendix E.

Bill 20 Amalgamation Amendments (Appendix B)

Jointly Initiated Amalgamation

With the implementation of the Bill 20 provisions for amalgamation, the existing processes for amalgamation in the *MGA* will continue, and a new regulation will be created to enable a more streamlined process to pursue amalgamation as a proactive solution to municipal viability when there is a high degree of agreement and will to collaborate at initiation.

An important consideration in developing the new jointly initiated amalgamation regulation will be to distinguish what provisions within the current processes will continue to apply, what provisions need to be modified, and what new provisions are needed to achieve the outcomes intended: a more streamlined amalgamation process that will result in successful amalgamation proceedings.

Summer Village Amalgamation

Summer villages have advocated for some time that they be able to retain their status as a summer village if they were to amalgamate, which was not the case prior to Bill 20. In addition, summer villages wanted the ability to amalgamate with other summer villages on the same body of water, without the need to have contiguous boundaries (which would often require an annexation of lands from the adjacent rural municipalities). With amendments to the *MGA* through Bill 20, summer villages have been provided with these options.

Options for Jointly Initiated Amalgamations

It is expected that the new Jointly Initiated Amalgamations Regulation may address these major policy matters: process of initiation, notification, withdrawal, annexation, matters of agreement, and the report/study.

Other issues raised by stakeholders to be considered in the context of the new regulation include the connection to the new Intermunicipal Collaboration Frameworks and public participation in amalgamations.

Initiation, Notification and Withdrawal

In the proposed new process, all municipal authorities (group) that agree to jointly become a new municipality would initiate an amalgamation study together. Every municipal authority participating could pass a resolution to participate in the amalgamation proceedings. The group could designate one municipality to represent the group in its application to the Minister, or the group may submit its application as a group. The group should send regular updates to the Minister in its progress with proceedings.

In addition to the Minister, the group should be required to notify other affected local authorities, such as neighboring municipalities and municipalities with agreements with the participating municipalities, school boards, regional services commissions, and any other authority that may be affected. The group should jointly develop its engagement plan for other affected local authorities and the public prior to initiation.

Should any of the municipalities participating in the amalgamation wish to withdraw from proceedings, they should be required to pass a resolution to the effect, give notice and its reasons for withdrawal to the group as well as the Minister, and also give notice of withdrawal to the list of affected authorities as was given notice of the amalgamation initiation.

After a withdrawal, if there are two or more remaining municipal authorities in the group, they could continue without the withdrawn municipal authority or conclude the jointly initiated amalgamation proceedings. The remaining group should not be able to initiate amalgamation proceedings with the withdrawn municipality as part of the jointly initiated amalgamation proceedings. In order to do this, the group would be required to conclude the jointly initiated amalgamation proceedings and start amalgamation proceedings in accordance with section 102 of the *MGA*.

Annexation

In circumstances where the group of municipalities do not have existing boundaries that would result in contiguous boundaries for the new municipality, annexation would be required. However, annexation can be contentious and may not be supported by the municipality being annexed, and therefore could be seen as not in the spirit of a voluntary process. On the other hand, annexations can be supported by municipalities proposed to be annexed, and they may wish to inform the Minister of this to be included as part of the amalgamation study.

An annexation to ensure contiguous boundaries of the new municipality could be undertaken by one or more of the municipal authorities that wishes to jointly initiate and could be required to be completed in advance of the jointly initiated amalgamation proceedings. The implication of this approach could be that annexation would be excluded from this amalgamation process, and only municipalities with existing contiguous boundaries could participate in jointly initiated amalgamations.

Amalgamation Study and Matters of Agreement

A distinction between the new process and the existing process will be the disposition of the document submitted to the Minister. In the new process, the document will have greater resolve that the matters required to be addressed have agreement by the group. In this light, the document could be called an amalgamation study rather than a report (on negotiations) as is in the existing process. The vast majority of matters to be addressed should have consensus from the group, but where there may be disagreement, it should be noted. The matters that should be contained within the study would include Sections 89 (Appendix C) and 111 (Appendix A) of the *MGA*, a description of the new municipal organization, a transition plan, and a description of the public engagement undertaken by the group.

Public Participation

Stakeholders have suggested that the public should be able to petition for municipal amalgamations, similarly to the petition provisions for municipal formations, change of status, and dissolutions. Members of the public have also expressed support to Municipal Affairs for this. It is important to note that this issue speaks to a broader question of public participation in the amalgamation process, and specific to the discussion in jointly initiated amalgamations, how public participation should be done to support the two main objectives of the new process: streamlining efforts by the municipalities and creating a more collaborative environment for discussions. To this end, it is important that public participation allow a two-

way communication between the public and the municipal councils. The public should have the opportunity to voice support or opposition, and the municipal authorities should be providing sufficient information to the public to take an informed position. Appropriate public participation should not be viewed as an opportunity to reduce or minimize process in the effort to streamline amalgamation proceedings.

Petitions could be utilized to create public participation but implementation should consider the principles of joint initiation and process efficiencies.

Discussion Questions

Discussion Question #1

How should the process of an amalgamation initiated jointly by two or more municipalities differ from an amalgamation initiated by one municipality?

Discussion Question #2

How should annexation be approached as part of jointly initiated amalgamations?

Discussion Question #3

What should the Minister's role be in an amalgamation initiated jointly by two or more municipalities?

Discussion Question #4

What should the role of residents and other stakeholders be in an amalgamation initiated jointly by two or more municipalities?

Discussion Question #5

Under what conditions should a municipality be allowed to withdraw from a jointly initiated amalgamation discussion?

What effect would this have on the proposed amalgamation between the other municipal partners?

Appendix A – Amalgamation

Municipal Government Act **Part 4 Formation, Fundamental Changes, and Dissolution**

Division 5 **Amalgamation**

Application

- 100** This Division does not apply to the amalgamation of
- (a) an improvement district with another improvement district, or
 - (b) a special area with another special area.

Restriction on amalgamation

- 101** No order amalgamating municipal authorities may be made that would result in an area of land that is
- (a) not included in any municipal authority, or
 - (b) part of the amalgamated municipal authority, but is not contiguous with other land in the amalgamated municipal authority.

Initiation of amalgamation proceedings

- 102** The procedure for the amalgamation of 2 or more municipal authorities may be initiated by a municipal authority or by the Minister under section 107.

Initiation by municipal authority

- 103(1)** A municipal authority initiates an amalgamation by giving written notice of the proposed amalgamation to
- (a) the one or more municipal authorities with which it proposes to amalgamate,
 - (b) the Minister, and
 - (c) any local authority that the initiating municipal authority considers would be affected by the proposed amalgamation.
- (2)** If an amalgamation proposed by an initiating municipal authority would result in an area of land that is within the perimeter of the boundary of the amalgamated municipal authority, but is not part of the amalgamated municipal authority, the initiating municipal authority must give notice of its intention to annex that land when it gives notice of the proposed amalgamation.
- (3)** Subsection (2) does not apply if the area of land within the perimeter of the boundary of the proposed amalgamated municipal authority is the area of an existing municipal authority.
- (4)** The notice for an amalgamation must
- (a) include the names of all the municipal authorities that are to be amalgamated and the reasons for the proposed amalgamation, and

(b) include proposals for consulting with the local authorities that the initiating municipal authority considers would be affected and the public about the proposed amalgamation.

Direct negotiations

- 104(1)** The municipal authorities with which the initiating municipal authority proposes to amalgamate must, on receipt of the notice under section 103, meet with the initiating municipal authority to discuss the proposals included in the notice and negotiate the proposals in good faith.
- (2)** The initiating municipal authority must keep the Minister informed of the progress of the negotiations.

Report on negotiations

- 105(1)** On conclusion of the negotiations, the initiating municipal authority must prepare a report that describes the results of the negotiations and that includes
- (a) a list of the matters agreed on and those on which there is no agreement between the municipal authorities,
 - (b) a description of the public consultation processes involved in the negotiations, and
 - (c) a summary of the views expressed during the public consultation processes.
- (2)** The report must be signed by the initiating municipal authority and by the municipal authorities with which it proposes to amalgamate that are prepared to sign and must include a certificate by the initiating municipal authority stating that the report accurately reflects the results of the negotiations.
- (3)** A municipal authority that does not sign the report may include in the report its reasons for not signing.

Disposition of report

- 106(1)** On completion of the report on the direct negotiations, the initiating municipal authority must submit the report to the Minister and send a copy of it to the municipal authorities with which it proposes to amalgamate and any other local authority the initiating municipal authority considers would be affected.
- (2)** If the initiating municipal authority indicates in the report that it wishes to proceed with the amalgamation, the report becomes the initiating municipal authority's application for the amalgamation.

Initiation by Minister

- 107** The Minister may initiate an amalgamation of 2 or more municipal authorities if the Minister believes that the operation of the municipal authority to be formed by the amalgamation will be more effective or efficient than the municipal authorities to be amalgamated.

Notice by Minister

- 108** When the Minister initiates an amalgamation, the Minister
- (a) must give written notice of it to the municipal authorities proposed to be amalgamated and any

local authority that the Minister considers would be affected by the proposed amalgamation,
(b) may invite comments on the proposed amalgamation from all local authorities that the Minister considers would be affected by the amalgamation and from any other person the Minister considers necessary,
(c) may invite comments on the proposed amalgamation from the public, and
(d) may conduct one or more meetings of the public to discuss the probable effects of the proposed amalgamation.

Consideration of principles

- 109** Before municipal authorities are amalgamated, the Minister must consider the principles, standards and criteria on amalgamation established under section 76.

Amalgamation order

- 110** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order amalgamate municipal authorities to form a new municipality.

Contents of order

- 111** An order to amalgamate municipal authorities may
- (a) dissolve one or more of the councils of the municipal authorities that are amalgamated,
 - (b) provide for an interim council,
 - (c) require a municipal authority to pay compensation to another municipal authority set out in the order or by means determined in the order, including arbitration under the *Arbitration Act*, and
 - (d) deal with any of the matters referred to in section 89.

Official administrator

- 112** When a municipality is formed by amalgamation and there is no council, the Minister may appoint an official administrator who has all the powers and duties of a council of the municipality until the first council of the municipality is sworn into office.

Appendix B - *Municipal Government Amendment Act, 2015 (Bill 20)*

Restriction on amalgamation (replaces existing section)

101(1) Subject to subsection (2), no order amalgamating municipal authorities may be made that would result in an area of land that is

- (a) not included in any municipal authority, or
- (b) part of the amalgamated authority, but is not contiguous with other land in the amalgamated municipal authority.

(2) An order may amalgamate 2 or more summer villages whose boundaries are not contiguous but border on or include all or part of the same body of water.

(3) Despite section 77, an order may amalgamate 2 or more summer villages if it gives the amalgamated municipal authority the status of a summer village.

(4) Where an order gives an amalgamated municipal authority the status of a summer village as required by subsection (3), the status of the summer village may be changed in accordance with Division 3.

Initiation of amalgamation proceedings (replaces existing section)

102 The procedure for the amalgamation of 2 or more municipal authorities may be initiated

- (a) by a municipal authority,
- (b) by 2 or more municipal authorities in accordance with the regulations made under section 106.01, or
- (c) by the Minister under section 107.

Report on negotiations (amends existing section)

105(1) On conclusion of the negotiation, the initiating municipal authority must prepare a report that describes the results of the negotiations and that includes

- (a) a list of the relevant matters, including those referred to in sections 89(1), (2), (3) and (4) and 111, that are agreed on and a list of any of those matters on which there is no agreement between the municipal authorities.

(2) The report must

- (a) include a certificate by the initiating municipal authority stating that the report accurately reflects the results of the negotiations, and
- (b) be approved by resolutions of the council of the initiating municipal authority and by resolution of the councils of the other municipal authorities that agree to the amalgamation.

(3) A municipal authority whose council does not pass a resolution approving the report may include in the report its reasons for not approving.

Regulations (new section)

106.1(1) The Minister may make regulations for the purpose of enabling municipalities to jointly initiate an amalgamation, including, without limitation, regulations

- (a) specifying or describing by reference one or more provisions of this Division that do not apply, or that apply with modifications, to the joint initiation of amalgamations;
- (b) specifying or setting out provisions that apply in addition to, or instead of, the provisions of this Division in respect of the joint initiation of amalgamations;
- (c) respecting procedures for the joint initiation of amalgamations.

(2) Regulations under this section may be made to apply generally or specifically.

Sources:

Municipal Government Act (<http://www.qp.alberta.ca/documents/Acts/m26.pdf>)

Municipal Government Amendment Act, 2015 (Bill 20)

(http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/bills/bill/legislature_28/session_3/20141117_bill-020.pdf)

Appendix C – *Municipal Government Act* Section 89

Contents of order

89(1) A formation order must

- (a) describe the boundaries of the municipality formed by the order
- (b) give the municipality the status of municipal district, village, town, city or specialized municipality, and
- (c) give the municipality an official name.

(2) If a municipal district is formed, the order

- (a) must state the number of councillors that is to comprise its council,
- (b) must establish wards for it and describe their boundaries,
- (c) may specify or describe by reference, the provisions of this or other enactments that do not apply to the municipal district, or that apply with or without modification, and
- (d) may specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments.

(3) If a specialized municipality is formed, the order must state the number of councillors that is to comprise its council and apply either section 150(1) or (2) to the municipality and may

- (a) establish wards for it and describe their boundaries;
- (b) specify or describe by reference, the provisions of this or other enactments that do not apply to the specialized municipality, or that apply with or without modification;
- (c) specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments;
- (d) prescribe matters or conditions that govern the functions, powers and duties of the specialized municipality;
- (e) if a specialized municipality is formed all or partly from an improvement district, provide that Part 15 continues to apply to the specialized municipality as if it were an improvement district.

(4) If the order provides that Part 15 continues to apply to a specialized municipality under subsection (3)(e), the Minister may at any time in respect of the specialized municipality

- (a) exercise any of the powers that the Minister has in respect of an improvement district under Part 15 or any other enactment, including the power to delegate;
- (b) limit the power, authority or jurisdiction of the specialized municipality;
- (c) prescribe how or the conditions under which the specialized municipality may exercise any power or authority;
- (d) require the specialized municipality to exercise or perform a power, right or duty of a municipality;
- (e) authorize the council to pass some or all of the bylaws that the council of a municipal district may pass, subject to any conditions the Minister imposes.

(5) If a municipality is formed from an improvement district, the order may dissolve the improvement district.

Appendix D – General (Restructuring) Provisions

Municipal Government Act Part 4 Formation, Fundamental Changes, and Dissolution

Division 8

General Provisions

Effect of certain orders

- 135(1)** When an order under this Part has the effect of including or placing an area of land that was in one municipal authority, called in this section the “old municipal authority”, in another municipal authority, called in this section the “new municipal authority”, as a result of the formation, annexation, amalgamation or dissolution of a municipal authority, then, unless the order provides otherwise,
- (a) the new municipal authority becomes the successor of the old municipal authority with respect to that area of land and the old municipal authority ceases to have any jurisdiction with respect to that area of land,
 - (a.1) all taxes due to the old municipal authority are deemed to be arrears of taxes due to the new municipal authority and may be collected and dealt with by the new municipal authority as if it had imposed the taxes,
 - (a.2) all rights of action and actions by or against the old municipal authority that relate to that area of land become rights of action and actions by or against the new municipal authority and cease to be rights of action and actions by or against the old municipal authority,
 - (b) all the assets, liabilities, rights, duties, functions and obligations of the old municipal authority that relate to that area of land automatically pass to the new municipal authority and cease to be those of the old municipal authority,
 - (c) if at the time of the notice under section 103 or 116, any land or any portion of it is designated or required to be provided as a public utility lot, environmental reserve, municipal reserve or municipal and school reserve under a former Act as defined in Part 17, the ownership of the land becomes vested in the new municipal authority in place of the old municipal authority, and
 - (d) bylaws and resolutions of the old municipal authority that apply specifically to the area of land continue to apply to it until repealed or others are made in their place by the new municipal authority.
 - (2)** If the land referred to in subsection (1)(c) is sold or money instead of land is received by the old municipal authority after the notice under section 103 or 116 is received, the proceeds of the sale or the money received must be paid to the new municipal authority.
 - (3)** The new municipal authority may only use the proceeds of the sale or the money received for purposes for which the old municipal authority could have used it.
 - (4)** The Lieutenant Governor in Council may
 - (a) authorize the council of the new municipal authority to impose an additional tax under Part 10 on the area of land to meet obligations under a borrowing made by the old municipal authority in respect of that area of land, or

(b) make any provision necessary to protect any rights that any person has in relation to the area of land.

(4.1) The Minister may direct the transfer of assets and liabilities from one municipal authority to another.

(5) This section does not abrogate or affect agreements described in section 30 or 45.

Power to effectuate transfer of land and other property

136 Where an order under this Division requires the ownership of land or other property to be transferred to a municipal authority, the Minister may do whatever is necessary to give effect to section 135(1) or a direction under section 135(4.1).

Transitional and other matters

137(1) An order of formation, change of status, amalgamation, annexation or dissolution may, in respect of any municipal authority affected by the order, contain provisions dealing with the following:

- (a) assessment and taxation;
- (b) property;
- (c) employees;
- (d) any matter required to properly effect or deal with the formation, change of status, amalgamation, annexation or dissolution, whether transitional or otherwise;
- (e) the application, addition, change or substitution of this or another enactment to give effect to the order.

(2) The provisions referred to in subsection (1) may deal with rights, obligations, liabilities, assets and any other thing that the Lieutenant Governor in Council considers is appropriate to be dealt with in the order and may operate despite a collective agreement.

(3) The Lieutenant Governor in Council may amend or repeal a provision referred to in subsection (1) that is contained in an order of formation, change of status, amalgamation, annexation or dissolution without having to comply with the requirements for passing the original order.

Retroactivity of orders

138(1) An order of the Lieutenant Governor in Council under this Part may provide

- (a) for the retroactive application of the order or any of its provisions, and
- (b) that the order or any of its provisions come into force on different dates.

(2) An order or any of its provisions may only be made retroactive to a date in the year immediately before the calendar year in which the order is made.

(3) Any error in any order made under this Part may be corrected by subsequent order, and the correcting order may be made effective as of the date of the original order or on some other later date that is specified in the order.

Orders published

- 139(1)** An order of the Lieutenant Governor in Council or the Minister made under this Part must be published in The Alberta Gazette.
- (2)** Publication of an order of the Lieutenant Governor in Council or the Minister made under this Part is conclusive proof of the fulfilment of any conditions precedent to the order.

Regulations Act

- 140** The Regulations Act does not apply to an order of the Lieutenant Governor in Council or the Minister made under this Part.

Location of boundaries

- 141(1)** In this section,
- (a) “survey” means a survey made under the *Surveys Act* or the *Canada Lands Surveys Act* (Canada);
 - (b) “surveyed land” means land that has been surveyed under the *Surveys Act* or the *Canada Lands Surveys Act* (Canada).
- (2)** Where the boundary of a municipality is described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, the boundary is the side of the road allowance on which monuments or posts are placed under a survey, except in the case of correction lines or where the description otherwise specifies.
- (3)** In the case of correction lines, the boundary is the south side of the road allowance.
- (4)** Where a road is the boundary of a municipality and land is acquired to widen the road, the land acquired automatically falls within that boundary.
- (5)** A road allowance between an Indian reserve and a municipality is in the municipality despite anything to the contrary in this section.
- (6)** Where a boundary of a municipality is described by reference to a river, the boundary is the right bank of the river facing downstream unless the description otherwise specifies.

Appendix E – Restructuring Principles, Standards, and Criteria

Municipal Government Act Part 4 Formation, Fundamental Changes, and Dissolution

Division 1

General Criteria

Principles, standards and criteria

- 76(1)** The Minister may establish and publish principles, standards and criteria that are to be taken into account in considering the formation, change of status or dissolution of municipalities and the amalgamation of or annexation of land from municipal authorities.
- (2)** the *Regulations Act* does not apply to the principles, standards and criteria

Restructuring Principles Ministerial Order No. L:077/01

See the scanned restructuring principles on the following pages. These principles are in effect and apply to formations, amalgamations and dissolutions.



ALBERTA
MINISTER OF MUNICIPAL AFFAIRS

MLA, Fort McMurray

MINISTERIAL ORDER NO. L:077/01

I, Guy Boutilier, Minister of Municipal Affairs, pursuant to section 76 of the Municipal Government Act, make the following order:

Except as otherwise provided by the Minister, the following principles, standards and criteria shall be applied when considering an application for a study of municipal restructuring pursuant to Part 4 of the Municipal Government Act:

1. Municipal restructuring includes the formation, amalgamation and dissolution of municipalities.
2. The following matters should be taken into account in considering proposals for municipal restructuring:
 - (a) the financial viability of the affected municipalities;
 - (b) the effects on the council structures, administrations, services and operations of the affected municipalities;
 - (c) the population of the participating municipalities, and the resulting effects on the political representation of the affected communities;
 - (d) whether an appropriate process has been used to initiate and develop the municipal restructuring proposal pursuant to Part 4 of the Municipal Government Act; and
 - (e) whether the process used has adequately identified the impacts of restructuring on the affected municipalities.
3. The formation process is appropriate when the restructuring will result in the creation of a new municipal government unit from one or more existing municipal governments or improvement districts.
 - (a) the formation of a new municipal government will be considered if the ongoing financial, political and operational viability of the new and remaining municipality or municipalities is likely to be achieved.
 - (b) the formation of a new municipal government should not be considered if it will result in an increase in the total number of municipal governments in Alberta.

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4. The amalgamation process is appropriate where two or more municipalities are joined to form a new municipal government unit with a new council and administrative structure that is significantly changed from the pre-existing structures of the affected municipalities.
 - (a) amalgamation will be considered if there are demonstrable advantages to the residents of the affected municipalities and if the ongoing financial, political and operational viability of the amalgamated municipality is likely.
5. The dissolution study process is appropriate where the intended restructuring does not require major changes to the council structure, administration or operation of the receiving municipality.
6. A dissolution study is not appropriate when the request raises broader regional issues that can be better addressed through another process such as a regional initiative or intermunicipal mediation.
7. If there are ongoing and unique requirements for the new municipal government proposed as a result of a municipal restructuring process, consideration will be given to the use of specialized municipal status pursuant to section 83 of the Municipal Government Act.
8. The Minister may direct the use of an appropriate study process on the receipt of any application for municipal restructuring.

Dated at Edmonton, Alberta, this 28 day of November, 2001.



Guy Boutilier
Minister of Municipal Affairs