

AAMDC Briefing on MGA Regulations – Batch Two

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Partners in Advocacy & Business

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INTRODUCTION

As part of the ongoing review of the *Municipal Government Act* (MGA), the following regulations have been released for public comment. These regulations are the result of legislative changes brought forward through the *Municipal Government Amendment Act* (2015) and the *Modernized Municipal Government Act* (2016). As shown below, there are a number of regulations which are newly developed while others are simply updated to reflect legislatively required changes or expiry dates. The regulations are broken into three sections: Governance and Administration, Planning and Development, and Taxation and Assessment.

The regulations are open to public comment for a 60-day period starting on **July 24th 2017 and ending September 22, 2017**.

The following regulations and associated information is adopted largely from the Alberta Municipal Affairs *Municipal Government Act* Review [webpage](#). The AAMDC will provide additional analysis over the 60-day public comment period.

For each regulation, there is a survey available that provides feedback directly to Alberta Municipal Affairs. The purpose of this document is for the AAMDC to provide additional context and a rural municipal perspective to the regulations where applicable.

The following regulations have been developed or updated. For additional information, see the content below.

Governance and Administration Regulations

- Intermunicipal Collaboration Framework Regulation - *New*
- Code of Conduct for Elected Officials Regulation - *New*
- Council and Council Committee Meetings Regulation - *New*
- Crowsnest Pass Regulation - *Updated*
- Determination of Population Regulation - *Updated*

Planning and Development Regulations

- Off-site Levies Regulation – *New* (Repeal and Replace)
- Subdivision and Development Appeal Board Regulation – *New*
- Subdivision and Development Regulation and Subdivision and Development Forms Regulation – *Updated*
- Canmore Undermining Review Regulation – *Updated*
- Canmore Undermining Exemption from Liability Regulation – *No Change*
- Community Aggregate Payment Levy Regulation – *Updated*

Assessment and Taxation Regulations

- Matters Relating to Assessment Sub-classes Regulation – *New*

- Community Organization Property Tax Exemption Regulation – *New (Repealed and Replaced)*
- Matters Relating to Assessment and Taxation Regulation – *Updated*
- Matters Relating to Assessment Complaints Regulation – *Updated*

GOVERNANCE AND ADMINISTRATION REGULATIONS

Intermunicipal Collaboration Framework Regulation – *NEW*

The *Modernized Municipal Government Act (MMGA)* added in the requirement for municipalities with a common border to create Intermunicipal Collaboration Frameworks (ICF) with each other, within two years of the *MMGA* coming into force. ICFs will address the sharing of services on an intermunicipal basis and outline how municipalities work together to coordinate regional growth and development, and the delivery of services. ICFs can be created by two neighbouring municipalities or multiple municipalities within a region.

This new regulation establishes the requirements for adopting, implementing and amending an ICF.

Key elements include:

- the basic ICF negotiation requirements including the need to negotiate in good faith;
- a dispute resolution process requirements for ICF negotiations;
- a dispute resolution process for ICF agreements;
- the appointment of an arbitrator;
- an arbitrator's powers;
- public participation in the arbitration process; and
- judicial review of arbitrator powers.

For a full text of the Intermunicipal Collaboration Framework Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC supports regional collaboration between municipal neighbors and recognizes the need for municipalities to work collaboratively to plan, fund and deliver services. Where possible, this should be done through local decision making. The requirement for ICFs and IDPs presents a balance between local decision making and mandatory inter-municipal collaboration by requiring municipalities to develop agreements.

At first glance, the regulation does not outline how an agreement must be reached but instead, focuses heavily on the dispute and arbitration mechanisms for instances where municipal neighbours are in disagreement or have failed to reach an agreement.

The AAMDC, along with Alberta Municipal Affairs and the Alberta Urban Municipalities Association are preparing tools and resources to assist municipalities in developing ICFs.

Code of Conduct Regulation - *NEW*

The *Municipal Government Amendment Act* added in the requirement for councils to establish a Code of Conduct for councillors to ensure elected officials govern in an ethical and businesslike manner. The new *MGA* and new codes of conduct will help elected officials do the best job they can to keep Alberta municipalities strong and vibrant. This new regulation was drafted to accompany the requirement above and proposes to:

- establish the requirements for and prescribe the content of a code of conduct that will apply directly to elected officials;
- establish minimum requirements for matters that the code of conduct must address such as representing the municipality, communicating on behalf of the municipality, adherence to policies, procedures and bylaws, respectful interactions with councillors, staff, the public and others, and conflict of interest;
- establish who may make a complaint and how complaints are submitted;
- establish a process used to determine the validity of the complaint;
- establish the types of sanctions that may be used for violation of the code of conduct bylaw such as a letter of reprimand, requirement to attend training, suspension or removal of appointments to committees;
- establish that a council must have a code of conduct within 270 days of proclamation of the Act; and
- establish that the code of conduct and any related bylaw be reviewed every four years.

For a full text of the Code of Conduct Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC supports the idea of a municipal council code of conduct that has sufficient enforcement mechanisms to allow municipal councils to correct violations in the code of conduct. The current regulation outlines a number of sanctions that may incentivize proper conduct but does not include the ability to remove a councillor from a council. It has been the ongoing position of the AAMDC that code of conducts be developed locally and this is realized in both the legislation and this regulation.

The AAMDC, along with Alberta Municipal Affairs and the Alberta Urban Municipalities Association are preparing tools and resources to assist municipalities in developing Council Codes of Conduct.

Council and Council Committee Meetings Regulation – New

The *Municipal Government Amendment Act* added in authority to make regulations defining “meeting” and additional classes of matters for which a meeting may be closed to the public to ensure transparency and hold municipal councils accountable. This new regulation was drafted to accompany that requirement and proposes to:

- establish a definition of a council or council committee meeting.

For a full text of the Council and Council Committee Meetings Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has supports the proposed changes to the opening and closing of council meetings as featured in the *Municipal Government Amendment Act* (2015). This regulation aligns with good governance practices that require decision making and official council business to take place in council meetings and committee meetings, and not in other non-official gatherings of municipal councillors. The regulation also allows councils to conduct training and education outside of official council meetings which aligns with the AAMDC position on this issue.

Crowsnest Pass Regulation – Updated

This regulation provides for special rules regarding the Municipality of Crowsnest Pass which date back to 1979 and were incorporated into the current legislative framework by way of regulation.

- Renew the regulation until 2020 and include the section of the Determination of Population Regulation related to the Municipality of Crowsnest Pass into the regulation.

For a full text of the Crowsnest Pass Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has no current concerns or comments with this regulation.

PLANNING AND DEVELOPMENT REGULATIONS

Off-Sites Levies Regulation – New (*Repealed and Replaced*)

This regulation outlines the principles and criteria a municipality must follow when negotiating, determining and calculating off-site levies for facility and infrastructure requirements; appeals for off-site levies and transparency provisions on how the levies are calculated, collected and reported.

The *Modernized Municipal Government Act (MMGA)* enabled off-site levies to include community recreation facilities, libraries, fire halls and police stations to empower

municipalities to work in partnership with developers and ensure Albertans and their families have access to these facilities. This new regulation was drafted to accompany that requirement and proposes to:

- Update general principles for identifying, consulting on, funding and coordinating infrastructure needs;
- Create additional principles for the new expanded scope (i.e. fire halls, police stations, libraries and recreation facilities)
- Identify criteria for developing levy formulas;
- Identify considerations upon which a levy is calculated;
- Update consultation requirements;
- Update reporting requirements; and
- Update Off-site Levy bylaw appeal requirements

For a full text of the Off-site Levies Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC supports the expansion of the scope of offsite levies to include the land and buildings for community recreation facilities, fire halls, police stations and libraries, and in general, supports the notion that those who benefit from a facility or service should pay for that service in a manner that is proportional to their benefit. The AAMDC will further analyze this regulation.

Subdivision and Development Appeal Board Regulation – New

The *Municipal Government Amendment Act* added in the requirement for mandatory training of both Subdivision and Development Appeal Board members and clerks to help them make the best decisions for Albertans. This new regulation was drafted to accompany that requirement and proposes to:

- control and regulate the requirement for mandatory training of members and clerks of a SDAB, and
- control and regulate the qualifications and training programs.

For a full text of the Subdivision and Development Appeal Board Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has supported training for SDAB members and will be looking to the province to provide supports in the provision of this training.

Subdivision and Development Regulation and Subdivision Development Form Regulation – *Combined and Updated*

This regulation specifies the requirements for subdivision applications, subdivision and development conditions, and the registration and endorsement of subdivision applications.

The *Modernized Municipal Government Act (MMGA)* added a new provision for determining when a subdivision application is complete to ensure all reviews and decisions are fair and accurate. This regulation was drafted to accompany that process and proposes to:

- align the definition of “food establishment” with the *Food Regulation*;
- align the regulation with the term ‘body of water’ used in the *MMGA*;
- clarify that all highways can be reviewed from a highway vicinity management perspective, regardless of the posted speed limit;
- clarify when the subdivision authority must send application to Alberta Transportation or the Ministry of Culture and Tourism for referral purposes;
- clarify how to determine setbacks from operating waste treatment plants;
- ensure the subdivision authority is informed of environmental reserve agreements and any active wells, batteries, processing plants or pipelines within a proposed subdivision;
- ensure a subdivision authority does not make a decision on lands until Alberta Transportation is satisfied with an area structure plan at the time of the application of subdivision;
- ensure that municipalities that decide to set their own decision making timelines adhere to their specified time; and
- incorporate the Subdivision and Development Forms Regulation into this regulation.

For a full text of the Subdivision and Development Regulation, click [here](#).

To complete Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC will further analyze this regulation to assess the impact on member municipalities.

Canmore Undermining Review Regulation – *Updated*

This regulation ensures due process of compliance and land analysis/certification is followed before developing on undermined properties in the Town of Canmore.

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For a full text of the Canmore Undermining Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has no identified concerns with this regulation as it is specific to the Town of Canmore.

Canmore Undermining Exemption from Liability Regulation – No Change

This regulation provides that the Town of Canmore and Canmore's agents are not liable for any third party loss or damage that arises during development or from the use of the designated land, or is directly or indirectly caused by undermining and related conditions in respect of the designated land.

For a full text of the Canmore Undermining Exemption from Liability Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has no identified concerns with this regulation as it is specific to the Town of Canmore.

Community Aggregate Payment Levy Regulation – Updated

This regulation enables municipalities to voluntarily pass Community Aggregate Payment Levy (CAPL) bylaws to impose a levy on shipments of sand and gravel (aggregate) operations in a municipality. This regulation is relevant only in municipalities where aggregate operations take place and enables municipalities to adopt a bylaw to collect a levy to offset the impacts of aggregate operations such as those associated with road infrastructure, or towards other community benefit projects, as determined by municipal councils.

- Increase the maximum levy rate from \$0.25 to \$0.40 per tonne of shipped sand and gravel, keeping the rate in line with inflation and helping municipalities maintain the safety of roads and bridges impacted by heavy industry. Also extend the expiry date by five years to December 31, 2022.

For a full text of the Community Aggregate Payment Levy Regulation, click [here](#).

To complete Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC surveyed members in 2016 about the future of the CAPL which formed the AAMDC's position. It has been the AAMDC's position that the maximum CAPL rate should be modernized to account for inflation and increased municipal costs. This regulation does raise the maximum levy to \$0.40.

The AAMDC will further analyze this regulation for its impact on AAMDC members.

ASSESSMENT AND TAXATION REGULATIONS

Matters Relating to Assessment of Sub-Classes Regulation – *New*

The *Modernized Municipal Government Act (MMGA)* provides the Minister with the authority to make regulations related to the creation and application of property tax sub-classes for non-residential properties. This new regulation was drafted to accompany that process and proposes to:

- define the sub-classes that municipalities may apply;
- allow councils to apply different property tax rates to each sub-class; and
- set a maximum difference between the property tax rates applied to each sub-class.

For a full text of the Matters Relating to Assessment of Sub-Classes Regulation, click [here](#).

To complete Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC has supported greater flexibility within the non-residential property class to distinguish between large and small businesses which is achieved within this regulation. The AAMDC will further analyze this regulation for its impact on AAMDC members.

Community Organization Property Tax Exemption Regulation – *New (Repealed and Replaced)*

This regulation sets out the conditions and qualifications for property tax exemptions for non-profit organizations that carry out a charitable or benevolent purpose for the benefit of the general public.

Repeal and replace the regulation with a re-organized and amended version to improve its usability and ensure transparent, fair and consistent property tax exemptions for non-profit organizations that carry out charitable, valuable work to the general public and vulnerable populations. The new version of Community Organization Property Tax Exemption Regulation (COPTER) would include the following amendments:

- re-organize the regulation into four parts;
- revise four definitions: “charitable and benevolent purpose”, “general public”, “minor fee”, and “professional sports franchises”;
- update the General Rules restrictions to reflect current Alberta Human Rights legislation;
- simplify approach for organizations to demonstrate that a service is being provided to the targeted segments of the general public;
- exempt Class A bingo facilities;

- align the subsidized accommodation model currently in place for lodges for other similar subsidized residential accommodations operated by non-profits to ensure equitable treatment;
- create a separate part in COPTER for Residential Associations;
- increase administrative flexibility by granting municipalities the authority to set their own administration deadlines to meet local needs; and
- remove the existing expiry date on the regulation.

For a full text of the Community Organization Property Tax Exemption Regulation, click [here](#).

To complete Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC will further analyze this regulation to assess the impact on member municipalities.

Matters Relating to Assessment and Taxation Regulation – Updated

This regulation is the primary regulation for property assessment and property taxation, which. The regulation:

- defines several important terms related to property assessment;
- provides a broad range of rules for assessing properties, requesting information pertaining to property and property assessments, and levying property taxes; and
- provides assessment and tax exemptions for farm residences and farm buildings, describes the process for preparing equalized assessment, and authorizes assessment audits.

The changes made through the *Modernized Municipal Government Act (MMGA)*:

- define designated industrial property as major plants, properties regulated by provincial and federal regulators, linear property, and rail property;
- centralize the assessment of all designated industrial property within Municipal Affairs with costs associated with centralizing assessment being recovered from designated industrial property owners;
- establish that all appeals related to designated industrial property will be heard by the Municipal Government Board;
- establish that all farm buildings in urban and rural municipalities will not be assessed or charged municipal or education property taxes;
- establish provisions to phase in farm building exemptions in urban municipalities over five years; and

- establish that farmland will continue to be assessed as farmland until it is no longer used for farming operations, which will be clarified in regulations associated with the *MGA*.

This regulation was drafted to accompany the above processes and proposes to:

- reference a [List of Major Plants \(click here to view\)](#) to be considered Designated Industrial Property;
- update several definitions related to industrial property and include some definitions currently found in the *MGA*;
- update the definition of 'farming operations';
- establish a valuation standard for land and buildings on Designated Industrial Property sites; and
- remove the existing expiry date on the regulation.

For a full text of the Matters Relating to Assessment and Taxation Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC will further analyze this regulation to assess the impact on member municipalities.

Matters Relating to Assessment Complaints Regulation – Updated

This regulation is the primary regulation for the property assessment complaint process.

The *Modernized Municipal Government Act (MMGA)* establishes that:

- composite Assessment Review Boards will hear complaints about business taxes, as well as levies on business improvement areas, and award costs to participants when appropriate;
- assessors will be able to make corrections to assessments under complaint without needing ratification from the assessment review board or having the complaint withdrawn first; and
- Assessment Review Board decisions may be appealed at Court of Queen's Bench by judicial review only.

This regulation was drafted to accompany that process and meet the needs of municipalities, industry and all Albertans when they have concerns about assessments.

This regulation proposes to:

- repeal provisions that limit Assessment Review Boards from hearing evidence in some circumstances;

- allow parties to a hearing to request that the record be sealed prior to the disclosure process;
- clarify the process for filing agent authorization forms;
- add a filing fee for assessment complaints regarding major plants; and
- change references to 'linear property' to 'designated industrial property.'

For a full text of the Matters Relating to Assessment Complaints Regulation, click [here](#).

To complete the Alberta Municipal Affairs survey on this regulation, click [here](#).

AAMDC Perspective: The AAMDC will further analyze this regulation to assess the impact on member municipalities.