ENCLOSURE 2

Continuing the Conversation

November 2016

FURTHER TOPICS FOR DISCUSSION ON THE MUNICIPAL GOVERNMENT ACT

CONTENTS

INTRODUCTION

The *Municipal Government Act* (*MGA*) is the guide to how municipalities operate, and is one of the most significant and far-reaching statutes in Alberta. The *MGA* affects every Albertan, the private sector, and every ministry in the Government of Alberta in one form or another.

On May 31, 2016, the Government of Alberta introduced Bill 21, the *Modernized Municipal Government Act* (*MMGA*), to the Legislative Assembly. Following introduction, Municipal Affairs went on the road to talk to Albertans and gather their thoughts on the proposed changes to the *MGA*. In total, 2402 people attended the 21 public sessions held across Alberta, 2376 questionnaires were submitted to the ministry, and 122 letters commenting on the draft legislation were sent to Municipal Affairs. The feedback we received over the summer informed the changes to the *MMGA* being introduced during the fall 2016 session of the Legislature.

The discussions throughout the summer gathered their own momentum and led to thoughtful feedback, questions, and written submissions on other modernizations that could potentially be made beyond the items contemplated in the *MMGA.* This paper is an opportunity to continue the conversation with Albertans about building an even stronger framework for our municipalities, and to raise some technical or clarifying changes that may be necessary to improve the act's effectiveness.

On the following pages you will find:

- discussion and description of emerging topics and how the act could be amended to address them; and
- a listing of proposed general technical amendments.

This discussion guide will be available for Albertans' feedback until January 31, 2017. Comments may be submitted through an online questionnaire on the *MGA* review website (http://mgareview.alberta.ca).

Feedback on this discussion paper will be used to inform potential amendments to the *MGA* for Spring 2017.

TOPICS FOR DISCUSSION—HOW ARE MUNICIPALITIES EMPOWERED TO GOVERN?

COLLABORATION WITH INDIGENOUS COMMUNITIES

BACKGROUND:

The *MMGA* proposed the concept of intermunicipal collaboration frameworks (ICFs). These frameworks are intended to ensure ongoing collaboration between municipalities, including coordinated land use planning, regional service delivery and cost sharing. In addition, the *MMGA* also proposed the requirement for municipalities to offer orientation training for municipal councillors.

The *MGA* does not apply to First Nations lands (federal legislation applies), and the planning and development components of the *MGA* do not apply to Metis Settlements; however, Indigenous groups intersect with municipalities through regular interactions for a variety of reasons, such as utility service delivery.

CONTEXT OF TOPIC:

The Province is committed to implementing the principles of the United Nations Declaration on the Rights of Indigenous Peoples, and, as such, it is important to encourage the province's municipalities to continue to take meaningful and reasonable steps to understand and engage with neighbouring Indigenous communities and citizens in a respectful and culturally appropriate manner, particularly with respect to land use planning and service delivery. Taking these steps also responds to First Nation and Metis concerns with respect to the degree of Indigenous involvement in the municipal land use planning process

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Agreements with Indigenous Communities	The *MGA* is currently silent on the relationship between municipalities and Indigenous communities.	Add a provision to the proposals in the *MMGA* to clarify that a municipality may invite Indigenous communities to participate in an ICF or any sub-agreement that is part of an ICF.
Orientation Training for Municipal Councillors	The *MMGA* (s. 201.1(2)) indicates what topics would have to be included in the proposed mandatory offering of orientation training for councillors, such as, the role of municipalities, roles and responsibilities of council and councillors, public participation, etc.	Add Indigenous Awareness Training to the list of topics councillors would be offered as part of their orientation training.
Statutory Plan Preparation	The *MGA* (s.636) deals with notifications with respect to statutory plans and the provision of opportunities for providing representations and suggestions regarding those plans during the development of the plans. The *MGA* currently exempts Metis Settlements from the Planning and Development portion of the Act (Part 17).	Require municipalities to implement policies with respect to how they will keep neighbouring Indigenous communities informed during the development of statutory plans and require municipalities to inform Indigenous communities that share a common boundary with two-week's notice of a public hearing for statutory plans including notice information (i.e. statement of purpose, date, time, and address of the meeting).

ENFORCEMENT OF MINISTERIAL ORDERS

BACKGROUND:

Currently, the Minister of Municipal Affairs may issue directives to ensure accountable and responsive local government under very specific circumstances. Directives may currently only be issued flowing from an inspection of a municipality where the inspection finds that the municipality has been governed or managed in an irregular, improvident or improper manner. In rare and extreme cases, where Directives resulting from a municipal inspection are not carried out to the Minister's satisfaction, the Minister may take actions such as removing councillors or Chief Administrative Officers (CAOs).

CONTEXT OF TOPIC:

Currently, the *MGA* does not give the courts direction on how to consider Ministerial orders and directives. This has created challenges in enforcing Ministerial orders and directives intended to address local governance concerns. Throughout the *MGA* Review process, Albertans and many municipal officials have expressed that it is important for there to be processes in place that hold councils accountable for their actions and promote a high standard of local governance.

Proposed changes would not allow the Minister to act arbitrarily, but would ensure proper authority exists to address significant concerns, and to provide more tools to ensure municipal compliance with Ministerial Orders.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
General Minister Powers	Currently the Minister lacks adequate authority to enforce Ministerial orders that implement: • decisions of an official administrator; or • decisions that settle intermunicipal disagreements.	Allow the Minister the same authority currently available with respect to the inspection process for situations where, in the Minister's opinion, a municipality has not complied with direction provided by an Official Administrator or by the Minister in respect of an intermunicipal disagreement. With this authority, the Minister could: • suspend the authority of a council to make resolutions or bylaws in respect of any matter specified in the order; • exercise resolution or bylaw-making authority in respect of all or any of the matters for which resolution or bylaw-making authority is suspended under the above measure; • remove a suspension of resolution or bylaw-making authority, with or without conditions; and, • withhold money otherwise payable by the Government to the municipality pending compliance with an order of the Minister.
Judicial Review	Individuals have the constitutional right to apply for judicial review of Ministerial decisions.	Require 10-day notice be given to the Minister prior to applying for injunctive relief against a decision of the Minister. The Ministerial Order would remain in effect during an appeal of the Minister's decision.

PARENTAL LEAVE FOR MUNICIPAL COUNCILLORS

BACKGROUND:

Currently, municipal councils can pass a resolution excusing a councillor from council meetings for a period exceeding 8 consecutive weeks, but there is no specific reference to parental leave in the *MGA*.

CONTEXT OF TOPIC:

Throughout the summer of 2016, various stakeholders expressed an interest in opening the discussion around parental leave for municipal councillors by specifically allowing municipalities to create policies on parental leave. Under the approach being explored, if a municipality chose not to allow for parental leave, the existing leave provisions in the *MGA* (up to 8 weeks) would still apply. The contents of a parental leave policy would be established by each municipality based on the needs of that municipality; however, if the policy allowed for extended parental leave, it would also be required to address how the constituents in that councillor's ward would be represented during the councillor's leave.

Providing for this kind of change would give municipalities the opportunity to take steps to make political life more family-friendly and accessible for women seeking office.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Parental Leave Policy	The *MGA* is silent on this matter.	Enable councils, by bylaw, to create a policy respecting parental leave. The contents of the policy will be determined by each municipality in accordance with the needs of that municipality. If the municipality allows for parental leave, it must also then address how the constituents will be represented during the councillor's absence.
Reasons for Disqualification of Councillors	The *MGA* (s.174) sets out the disqualification provisions for municipal councillors, such as being ineligible for nomination, being absent from regular council meetings for 8 consecutive weeks, the councillor becoming an employee of the municipality, etc.	Specifically state that a councillor is not disqualified by being absent from regular council meetings under subsection (1)(d) if the absence meets the criteria set out in a parental leave policy bylaw.

ENVIRONMENTAL STEWARDSHIP

BACKGROUND:

Traditionally, municipal purposes have been defined as providing good governance; providing services, facilities and other things necessary or desirable for the municipality; and developing and maintaining safe and viable communities.

CONTEXT OF TOPIC:

During the summer 2016 discussions, some stakeholders expressed concern that municipalities lack explicit authority to incorporate environmental stewardship considerations in their operational and land-use decision making processes.

Explicitly including environmental stewardship as a municipal purpose would give municipalities authority to cite environmental consideration in a range of operational and growth decisions. It would also allow municipalities to fully embrace a leadership role in environmental stewardship and more actively participate in moving toward the goals in Alberta's Climate Leadership Plan.

Municipalities would not be permitted to take responsibility for areas covered under provincial legislation, such as the *Water Act* or the *Environmental Protection and Enhancement Act*, nor would they be authorized to take land for environmental stewardship considerations without compensation. The reserve land provisions in Part 17 of the *MGA,* including the proposed new conservation reserve provisions, would continue to apply.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Environmental Stewardship as a Municipal Purpose	The *MGA* identifies the following municipal purposes: • to provide good government; • to provide services, and • to develop and maintain safe and viable communities. The *MMGA* proposes also including the following as a municipal purpose: • to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.	Include consideration of the stewardship of the environment as a municipal purpose.

NOTIFICATION OF AMALGAMATIONS AND ANNEXATIONS

BACKGROUND:

Some local authorities, such as school boards, have expressed concern that they are not always notified of proposed annexations or amalgamations, which can affect the jurisdiction in which students go to school.

CONTEXT OF TOPIC:

Currently, by definition, a "local authority" includes municipalities, regional health authorities, regional services commissions, and school boards. Any change would ensure that all local authorities in the area are notified of a proposed annexation or amalgamation.

The *MMGA* has removed the Deputy Minister of Municipal Affairs as the Administrator of the Municipal Government Board, and replaced that position with a Chair of the Board. As a result, whereas the previous notification provision would result in the Ministry being notified via the Deputy Minister, this will no longer be the case. A separate provision is needed to maintain the notification to the Ministry.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Amalgamations: Initiation by a Municipal Authority	The *MGA* (s.103 (1)) indicates who a municipal authority must notify when initiating an amalgamation.	Require that a municipality initiating an amalgamation must notify all local authorities that operate or provide services in the affected municipalities, and include proposals for consultation with local authorities in the requirement for notice.
Initiation of Annexation	The *MGA* (s.116) indicates who a municipal authority must notify of a proposed annexation.	Require that a municipality initiating an annexation must notify the Minister of Municipal Affairs and all local authorities that operate or provide services in one or both of the affected municipalities be notified.

TOPICS FOR DISCUSSION—HOW DO MUNICIPALITIES WORK TOGETHER AND PLAN FOR GROWTH?

MUNICIPAL COLLABORATION WITH SCHOOL BOARDS

BACKGROUND:

As part of the subdivision application approval process, a municipality may require a portion of the land in a subdivision to be dedicated for a public benefit such as a park or school. Such lands are called reserve land. A municipality may require up to 10 per cent of the lands from a subdivision area to be dedicated as municipal reserve (MR), school reserve (SR), or municipal and school reserve (MSR) lands.

Joint Use Agreements (JUAs) between schools and municipalities have been in existence since the late 1950s, and outline how MR, MSR and SR lands will be allocated between the municipality and each school board within its boundary. In the absence of a JUA, the needs of municipality and the school board(s) are determined at subdivision. Many municipalities within the province have developed JUAs with local school boards to provide clarity on the use, development, and disposal of school facilities and land.

CONTEXT OF TOPIC:

During the *MGA* Review's 2016 summer engagements, municipalities and school boards expressed frustration with the reserve land assembly process. Both advocated for a new approach when acquiring land for sites that exceed the amount of reserve land available through the subdivision process. In addition, many municipalities and school boards advocated for legislative amendments to mandate the establishment of Joint Use Agreements as a normal course of business.

Benefiting Area Contribution

The assembly of land for larger parks and school sites can be difficult under the current reserve land process. A solution that has been discussed over the course of the *MGA* Review is allowing reserve land contributions through a benefitting area contribution structure. This structure could be used to support land dedication and development of parks and school sites, and would allow the impact on developers in the area to be distributed more evenly.

This structure would give municipalities the ability to define a geographical area in a developing area that will benefit from larger assembly of land sites, such as the catchment area for children attending a high school. This benefitting area will typically have more than one developer involved in developing the land. Once the benefiting area is defined, municipalities would identify which developers' subdivision will contain the reserve land site. The municipality would then be enabled to collect up to half of the other developers' maximum 10% contribution in funds rather than in lands, and the resulting funds could be used to compensate the developer where the site is located (for the additional land required for the site above and beyond the normal 10% dedication).

The benefiting area contribution structure would be different from the existing money-in-place of MR, SR and MSR structure as it would include the costs required for the assembly and servicing of the reserve sites, thereby promoting an equitable distribution of costs required to assemble and service the sites.

Joint Use Agreements

The *MGA* provides the flexibility for municipalities to enter into JUAs with school boards, but they are not mandatory. Stakeholders expressed during the summer engagement that there is a need for a more efficient and effective use and development of school facilities and sites to better address the goals of integrated planning, more livable communities, and more efficient and cost effective funding.

Making JUAs mandatory would support collaboration between school boards and municipalities, and ensure municipal reserves are used efficiently and effectively. This change would lead to coordinated decision-making in the use, development, and disposal of school facilities and sites.

POTENTIAL AMENDMENT FOR DISCUSSION:

Topic	Current	Proposed Changes
Benefitting Area Contribution	The *MGA* authorizes the taking of reserve land by a subdivision authority (e.g. provision of land, provision of money in lieu of land, etc.), as well as restrictions on that authority (e.g. percentage of lands taken and percentage of money required to be paid). The *MMGA* proposes maintaining that same structure for Conservation Reserve.	Provide municipalities with increased flexibility to use a 'benefiting area contribution structure' that would support land dedication and development parameters with respect to assembly of parks and school sites.
Mandatory Joint Use Agreements	The *MGA* (s.670) enables Joint Use Agreements as a voluntary agreement to address the allocation of municipal and school reserves.	Require municipalities to enter into JUAs with school boards within their municipal boundaries and to collaborate with respect to addressing the effective and efficient use of municipal and school reserve lots. The contents of a JUA would include: • the process for acquiring and disposing of land and associated servicing standards for the schools; • a process for enabling and developing long term and integrated planning for school sites/facilities; • a process for determining access agreements for facilities and playing fields, including matters related to any maintenance, liabilities and fees; • a dispute resolution mechanism agreed to by both the municipality and the school boards; • a process for determining ancillary reserve use to complement or enhance the primary school uses for reserve land outlined in the MGA and that have a public benefit; • a time frame and mechanism for regular review of the joint use agreement. Consequential amendments may be required to the *School Act* and the *Education Act.*

OFF-SITE LEVIES

BACKGROUND:

Municipalities can collect off-site levies from new developments within their boundaries to pay for servicing upgrades related to water, sanitary sewage, storm sewer drainage, and municipal roads. Through the *MMGA,* it is proposed to expand this levy to include fire halls, police stations, libraries, and community recreation facilities.

CONTEXT OF AMENDMENTS:

During the summer, stakeholders brought forward additional issues related to off-site levies.

Provincial Transportation Systems

A levy system could be implemented to fund provincial highway improvements that service a new development upon its completion (for example, highway overpasses and interchanges); this would support the creation of more comprehensively planned communities. Approval by the Minister of Transportation would be required to ensure the levy costs align with Alberta Transportation's projected costs for the construction of the infrastructure. Alberta Transportation would also have an opportunity to review and comment on any proposed new development and its impacts on Provincial highway infrastructure when statutory plans are created.

Inter-municipal Off-site Levies

Stakeholders indicated that, in some instances, off-site infrastructure or the benefit of additional off-site infrastructure may extend into developments in another municipality. It was proposed that municipalities should have the ability to levy for off-site infrastructure across municipal borders. This is consistent with the strong intermunicipal collaboration focus of the *MMGA,* enabling intermunicipal off-site levies would be an additional tool to increase regional collaboration.

In this model, when new or expanded off-site infrastructure is located in one municipality, but the benefitting area extends to one or more other municipalities, off-site levies could be charged to developments in either municipality benefiting from the infrastructure.

Validating Existing Off-site Levy Bylaws

Some municipalities have existing bylaws and agreements in place, and the proposed new off-site levy provisions may create legal challenges for some of these off-site levy bylaws or agreements. Validating existing off-site levy bylaws and agreements would ensure off-site levy bylaws and development agreements created before a specific date would remain valid until such time as the agreement expires or the bylaw is amended.

Education

In some situations, off-site levies may be applied to school developments. School Boards have requested that they be exempted from the application of off-site levies for school site projects given that new schools provide a public benefit within communities. It is proposed that school boards be exempt from paying off-site levies on developments related to school board purposes.

POTENTIAL AMENDMENT DISCUSSION:

Topics	Current Status	Proposed Changes
Provincial Transportation Systems	The *MGA* (s.648) authorizes councils, by bylaw, to impose levies on land that is to be developed or sub-divided and sets out parameters for the imposition and collection of levies. The legislation does not currently allow for levies related to provincial infrastructure upgrades.	Enable off-site levies, by bylaw, to be charged for provincial transportation projects that serve the new or expanded developments. Require approval of the Minister of Transportation before this type of levy can be collected. Consequential amendment to the *Public Highways Development Act* may be required to authorize the Minister of Transportation to approve municipal off-site levy bylaws pertaining to provincial highway off-site levies.
Intermunicipal Off-Site Levies	The legislation does not currently allow for intermunicipal off-site levies.	Enable municipalities to collaborate with one another on the sharing of intermunicipal off-site levies, including the expanded uses (libraries, police stations, fire halls, community recreation facilities).
Validating Existing Off-Site Levy Bylaws	This item is not currently addressed in the legislation.	Specifically, state that any off-site levy fee or charge made by bylaw or agreement before November 1, 2016 is deemed to be valid.
Education	This item is not currently addressed in the legislation.	Exempt school boards from paying off-site levies on non-reserve lands that are developed for school board purposes.

CONSERVATION RESERVE

BACKGROUND:

As part of the subdivision application approval process, a municipality may require a portion of the land to be dedicated for a public benefit such as a park or school. Such lands are called reserve land. The *MGA* requires municipalities to follow a public process when removing the reserve designation from most municipal, community services, and school reserve lands. Lands designated as environmental reserve cannot have the reserve designation removed, but the use of this land can be altered through a council bylaw process.

Under the *MMGA* a new type of reserve land designation, conservation reserve, was proposed. Under this model conservation reserve would be collected during the subdivision application process and used to protect environmentally significant areas. The conservation reserve land assembly process would ensure owners of land taken as conservation reserve are appropriately compensated. Should land be dedicated as conservation reserve, the dedication could not be removed.

CONTEXT OF TOPIC:

During the summer, stakeholders indicated that further clarity is required with respect to how conservation reserves should be identified, transferred between municipalities, and protected.

Stakeholders are seeking clarity and predictability within the land designation process and in order for municipalities and landowners to make more informed land-use planning decisions. Stakeholders were also interested in whether the conservation reserve land designation could be removed on lands that have lost their conservation significance (e.g. flood, fire).

The specific changes proposed include:

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Transfer of conservation reserve	The *MGA (s.127)* identifies what an order to annex lands may require.	Require the municipality receiving the annexed land to pay compensation to the other municipality for any conservation reserve lands within the annexed area in the amount that the municipality originally paid for the land.

Topic	Current Status	Proposed Changes
Transfer of conservation reserve	The *MGA* ensures that during formations, annexations, amalgamations, and dissolutions ownership of any land, or portion of land, designated as a public utility lot, environmental reserve, municipal and school reserve, transfers to the new municipal authority (s.135(1)(c), (2) and (2.1)). The *MGA* also indicates that if reserve lands are sold or money instead of land is received by the old municipality after notification of annexation or amalgamation, the proceeds of the sale or money received must be paid to the new municipal authority by the old municipal authority.	Specifically state that the proposed new Conservation Reserve designation is treated the same as these other categories of land and that the designation would remain on that land until such time as it is changed through any required processes.
Identification of conservation reserve	The *MGA* outlines what a Municipal Development Plan must and may contain (s.632(3))	Clarify that in addition to other types of reserve land that must be included in an MDP, a municipality may include policies addressing the proposed new conservation reserve designation, including types and locations of environmentally significant areas and the environmental purpose of conservation.
Identification of conservation reserve	The *MGA* indicates that an Area Structure Plan may contain any other matters a council considers necessary (s.633(2)(b)).	Specifically state that municipalities may develop policies addressing reserve lands within their area structure plans. This would include identifying types and locations of environmentally significant areas and the environmental value of conservation.
Exempting conservation reserve lands from paying municipal property taxes.	The *MGA* exempts environmental reserves, municipal reserves, school reserves, municipal and school reserves and other undeveloped property reserved for public utilities from paying municipal property taxes (s.361.c).	Exempt land designated as conservation reserve under the proposed new provisions from paying municipal property taxes.
Disposal of conservation reserve	The proposals in the *MMGA* do not address removal of the conservation reserve designation or sale of conservation reserve lands.	Allow municipalities to dispose of land designated as the proposed new conservation reserve when a substantive change outside of municipal control occurs to the feature being conserved, while ensuring the public process used to dispose of municipal reserve and school reserves is followed with the disposal of conservation reserve lands Specifically state that any proceeds from the disposal of conservation reserve would have to be used for conservation purposes.

TOPICS FOR DISCUSSION—HOW ARE MUNICIPALITIES FUNDED?

COMPLIANCE WITH THE LINKED TAX RATE RATIO

BACKGROUND:

Municipalities currently have the ability to distribute property taxes between non-residential and residential property owners however they wish. In some municipalities, this has led to non-residential tax rates increasing much faster than residential tax rates. In some cases, non-residential property tax rates are more than 10 times higher than the residential property tax rates. The *MMGA* proposed a maximum ratio of 5:1 between the highest non-residential property tax rate and the lowest residential property tax rate. Under this proposal, municipalities that had higher tax rate ratios would be able to maintain their ratio from year to year, but would not be permitted to increase it.

CONTEXT OF TOPIC:

Feedback from stakeholders over the summer indicated that further consultation was required to determine whether municipalities currently outside of the proposed 5:1 ratio should be required to come into compliance with the maximum ratio within an established timeframe rather than have their ratios maintained at current levels.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Compliance Timeframe	No required compliance date has been proposed for municipalities outside of the proposed ratio.	Add a provision requiring municipalities to comply with the proposed maximum tax rate ratio. Allow the Minister to set a schedule with progressively lower maximum tax ratios that municipalities exceeding the 5:1 ratio would have to meet in the intervening years. The Minister would have authority to set timeframes by which municipalities or groupings of municipalities would have to reach the 5:1 ratio, based upon how much their local ratio diverges from the legislated 5:1 ratio. Municipalities would always set their own tax rates, but within the ratios set out in the regulation. Add a provision giving the Minister authority to exempt a municipality from any aspect of the proposed compliance schedule if and when they consider it appropriate.

TAXATION OF INTENSIVE AGRICULTURAL OPERATIONS

BACKGROUND:

Intensive agricultural operations are large-scale farming operations that take place on a relatively small land area, often with extensive use of farm buildings and improvements such as structures, fencing, and lighting. Farm buildings and improvements are currently exempt from property taxation in rural municipalities and, due to changes proposed through the *MMGA*, may soon be exempt from property taxation in all municipalities. The result could be that intensive agricultural operations, which have large investments in farm buildings and improvements, may pay about the same amount of property tax as non-intensive farms of similar land area.

CONTEXT OF TOPIC:

Intensive agricultural operations generally move large volumes of animals or agricultural products which can cause significant wear and tear on municipal infrastructure such as roads and bridges. This can result in high maintenance costs for municipalities. Throughout the *MGA* Review there has been consistent conversation about how to ensure that these operations contribute funds to their municipalities commensurate with their impact on municipal infrastructure and services.

Should such a change be included in the *MGA*, discussion with stakeholders would be required to get input and perspective on regulatory requirements.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Levy on Intensive Agriculture	There are no specific provisions for intensive agriculture operations	Explicitly authorize municipalities to pass a bylaw imposing a levy on intensive agricultural operations. Also authorize the creation of regulations respecting the intensive agricultural operations levy including: • the definition of intensive agricultural operations; • the calculation of the levy; • the purposes for which funds collected through the levy may be used; and, • any other matter necessary or advisable to carry out the intent and purpose of the levy.

ACCESS TO ASSESSMENT INFORMATION

BACKGROUND:

The *MMGA* proposed consolidating several industrial property types (major plants; facilities regulated by the Alberta Energy Regulator, Alberta Utilities Commission and National Energy Board; railway properties; and linear property) under a new classification of Designated Industrial Property (DIP) which will all be assessed centrally by the Province.

CONTEXT OF TOPIC:

Property owners and municipalities both have a stake in ensuring that assessments prepared for these properties are accurate, which is why both parties would have the ability to file complaints about assessments prepared by the province. Property owners would have a legislated right to request information sufficient to show how the assessor prepared their assessment, but as the proposed legislation is currently drafted, municipalities would not have a similar right.

Some of the information that would be used to prepare DIP assessments is considered confidential by industrial property owners. This information may be necessary for a municipality to understand how the assessment was prepared, but it should not be shared or used for purposes outside of this process.

Any amendments to the proposals in the *MMGA* would provide municipalities with the right to access the information used to prepare an assessment of DIP property within their jurisdiction in order to understand how the assessment was prepared, but would also protect confidential information about the industrial property in question.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Access to DIP Assessment Information	The *MMGA* as written would not allow municipalities access to information regarding how a DIP assessment was prepared.	Include provisions in the proposed new legislation to allow a municipality to request information regarding assessments of designated industrial property in their jurisdiction. The provincial assessor would have to comply with this request except while there is an active complaint from the municipality on the property. Under this proposal, municipalities requesting information on provincially prepared assessments could be required to sign a standardized confidentiality agreement to ensure that information provided by property owners is only used to determine if the property is assessable, if the assessment is prepared correctly, if a complaint is warranted; and to prepare a case.
Providing the Information to Municipalities	The *MGA* is silent on this matter.	Specifically state that information provided to the province by property owners under sections 294 and 295 could be provided to municipalities upon request, subject to confidentiality requirements.

ASSESSMENT NOTICES

BACKGROUND:

It is not sufficiently clear when assessment complaint periods begin and end due to ambiguity regarding when documents are understood to be sent and received.

CONTEXT OF TOPIC:

Stakeholders expressed that it is important to remove ambiguity about the complaint period for assessment notices.

POTENTIAL AMENDMENTS FOR DISCUSSION:

Topic	Current Status	Proposed Changes
Notice of Assessment Date	Assessment notices must include the deadline for filing a complaint about the assessment, which must be 60 days from the date the assessment notice is sent.	Requires municipalities and, in the case of the proposed *MMGA* provisions, the provincial assessor to set a "notice of assessment date" which would be required to be between January 1 and July 1. The notice of assessment date would be included on assessment notices, and assessment notices would be sent prior to the notice of assessment date. Enable municipalities and the proposed provincial assessor to establish additional notice of assessment dates for amended and supplementary assessment notices, which could occur at any time throughout the year. The deadline for filing a complaint about an assessment would be 60 days from the notice of assessment date.

CLARITY REGARDING TAX EXEMPTIONS

BACKGROUND:

Any Crown interest in property is exempt from taxation under the *MGA*. This includes Provincial agencies as defined under the *Financial Administration Act*.

CONTEXT OF TOPIC:

While any Crown interest is exempt from taxation, the government recognizes that it is fair and appropriate to compensate municipalities for the services the municipality provides to these properties (such as water, sewer, and fire protection).

The provincial government has the discretion to pay municipalities a grant up to the amount the municipality would collect in property taxes if a Crown property were not exempt from taxation. In other cases, where the government leases property, the lease agreement often means that the property owner pays property taxes on behalf of the government. Given the wide range of leasing and accommodations arrangements by provincial government entities, greater clarity is being sought by stakeholders regarding the responsibility of Crown agencies to pay property taxes.

The definition of "Provincial agencies" in the *Financial Administration Act* specifically excludes Alberta Health Services and housing management bodies established under the *Alberta Housing Act*. The *Municipal Government Act* (section 362) also specifically exempts schools, colleges and universities from property taxes. Any proposed amendment would not affect the tax status of Alberta Health Services properties, social housing, schools or universities.

POTENTIAL AMENDMENT FOR DISCUSSION:

Topic	Current	Proposed Changes
Taxation of Provincial Agencies	Under the MGA, any property interest held by a Provincial agency is exempt from taxation.	Specifically state that properties owned, leased and held by provincial agencies (as defined in the *Financial Administration Act*) are taxable for the purposes of property taxation. This would not include Alberta Health Services, housing management bodies established under the *Alberta Housing Act*, schools, colleges and universities.

CORRECTIONS TO ASSESSMENTS UNDER COMPLAINT

BACKGROUND:

The *MGA* (as amended by the *MMGA*) would allow an assessor to revise an assessment, even if the assessment is under complaint; however, the current framework for assessment complaints does not include a suitable process for the assessor to revise assessments that are under complaint.

CONTEXT OF TOPIC:

Until recently, assessors' authority to revise assessments was limited to correcting minor technical errors. A recent ruling from the Supreme Court of Canada has re-interpreted the *MGA* to expand assessors' authority to revise assessments, including the ability to increase assessments. The combination of expanding the type of revisions that an assessor can make and allowing assessors to revise assessments that are under complaint has implications for the assessment complaint framework.

The proposed amendments are intended to provide a suitable process whereby the assessor can revise assessments during the complaint process, but fully maintain the property owner's rights to review their assessment and file a complaint.

POTENTIAL AMENDMENT FOR DISCUSSION:

Topic	Current Status	Proposed Changes

Changes to Assessments under complaint	Under the *MGA* as amended by the *MMGA*, assessors would be permitted to revise an assessment even after a complaint has been filed on the assessment.	Establish the following process for revising an assessment that is under complaint:
		• Require an amended assessment notice, along with written reasons for the changes to the assessment, to be sent to
		  ○ the assessed person;
		  ○ the municipality (if the property is Designated Industrial Property);
		  ○ the complainant (if it is not the assessed person); and
		  ○ the assessment review board or Municipal Government Board (depending on the property type).
		• Require the assessment review board or Municipal Government Board to cancel the complaint, notify the property owner of the cancellation, and refund the complaint fee.
		An amended assessment notice is not required if an assessment is revised as a result of a complaint being withdrawn by agreement between the complainant and the assessor, except in the case of the proposed new Designated Industrial Property class.

Topic	Current Status	Proposed Changes
		An assessed person or a municipality would be able to file a complaint about the amended assessment notice within 60 days of the assessment notice date. Do not permit an assessor to revise an assessment after an assessment review board or the Municipal Government Board has rendered a decision on a complaint regarding the assessment.

GENERAL TECHNICAL AMENDMENTS

GENERAL TECHNICAL AMENDMENTS—GOVERNANCE

Current	Proposed	Rationale
Other Requirements for a Petition **s.224 (*MGA*)** This section indicates that a witness to a petition signature must take an affidavit indicating the signatory to a petition is eligible to sign.	Clarify that the inclusion of witness affidavits is required upon submission of a petition.	The absence of affidavits makes it difficult to determine the validity of signatures, and therefore the overall sufficiency of a petition. The inclusion of an explicit provision requiring affidavit submission will assist in either compelling their submission or finding the petition to be insufficient.
Contents of an Operating Budget **s.243(1)** This indicates that a municipal operating budget must include the estimated amount of specific expenditures and transfers.	Add a requirement to include the estimated amount of expenditures and transfers needed to meet the municipality's obligations for services funded under a proposed Intermunicipal Collaboration Framework (ICF) or a revenue sharing agreement.	This amendment would ensure that funding obligations under proposed ICFs would be addressed, and will also continue the provisions in a soon-to-expire regulation governing the sharing of revenue from Improvement District 349 in the Bonnyville-Cold Lake region (ID 349 Revenue Sharing Regulation).
Advertisement Bylaw **s.606(2)(c) (*MGAA, 2015*)** This section authorizes a municipality to advertise **only** on its website and without the requirement of a bylaw.	Repeal subsection (2)(c), repeal the reference to it in s.606.1(4) and repeal the additional notice requirement in s.606(6)(e) that relates only to notification given on a website under subsection (2)(c).	Some stakeholders raised concerns with the potential lack of transparency that could result. 606(2)(d) and 606.1 allow for the same form of notification while including additional transparency and accountability measures if a council wants to use such alternative notification methods. In practice, this means that a municipality could still use their website as a means of satisfying public notification requirements, but only if a bylaw had been passed, following a public hearing, to enable this approach.

Current	Proposed	Rationale
FOIP and Closed Council meetings **s.197** Indicates when a meeting may be closed with reference to the *Freedom of Information and Protection of Privacy Act* (FOIPP).	Remove the direct reference to the FOIPP provisions. This matter will be addressed by directly referencing the allowable exceptions within a proposed regulation.	The Privacy Commissioner has identified that the reference to the exceptions from FOIPP should be replaced by specific provisions in the *MGA* or associated regulations. This change would allow the description of the exceptions to be clearer by framing them in the context of meetings. The exceptions will be incorporated into the proposed Closed Council Meetings Regulation.
Form of Nomination **The *Local Authorities Elections Act (LAEA)* (s.27(1))** includes the requirement that each candidate must provide a written acceptance, which includes the statements that the candidate is eligible to be elected and will accept the office if elected.	Add a new provision to the *LAEA* to require candidates to acknowledge the requirement to read and comply with the municipality's code of conduct if elected.	This is consistent with the intent of requiring all municipalities to have a code of conduct in the 2015 *MGAA.*
Revision Authorized **s.63 (*MGA*)** This section allows council, by bylaw, to authorize administration to revise a bylaw in accordance with a list of permitted revisions.	Add a requirement to allow council, by resolution, to authorize the Chief Administrative Officer of a municipality to revise a bylaw in accordance with a list of permitted revisions.	Stakeholders have expressed a need to clarify the process for correcting minor errors to bylaws.
Requirements Relating to Substituted Bylaws **s.65 (*MGA*)** This section sets out deeming requirements for passing revised bylaws.	Clarify that this section operates despite the provisions in s.191, which deals with the power to amend or repeal a bylaw.	Stakeholders have expressed a need to clarify the process for correcting minor errors to bylaws.

GENERAL TECHNICAL AMENDMENTS—PLANNING AND DEVELOPMENT

Current	Proposed	Rationale
Environmental Reserve **s.664(1)(a)** This section identifies the types of land that can be dedicated as Environmental Reserve during subdivision application processes.	Change the reference from swamp to wetland.	Changing swamp to wetland will modernize the language in the *MGA* and harmonize the legislation with the wetland policy that was developed by Environment and Parks.
Statutory Plans **s.636.1** The *MGA* addresses notifications with respect to statutory plans and the provision of opportunities for suggestions or representations regarding those plans.	Add a requirement that area structure plans with a provincial highway component will need to be referred to Alberta Transportation.	Alberta Transportation has indicated that this will assist with their long-range planning.
Subdivision and Development Appeals **s. 686(1.1)** This section indicates the date of notification of an order, decision or development permit is deemed to be 7 days from the date mailed.	Ensure that the appeal period is the same for posted, advertised or mailed notices.	Development permit decisions can be posted, advertised or mailed, depending on a municipalities land use bylaw. Maintaining this provision, as is, would mean that mailed notices would have 21 days to file an appeal, but that published or advertised notices would only have 14 days. An amendment to adjust this section to make the appeal period the same for posted, advertised and mailed and published notices was not possible through house amendment.

GENERAL TECHNICAL AMENDMENTS—ASSESSMENT AND TAXATION

Current	Proposed	Rationale
New Extension of Linear Property Regulation	Exclude the Extension of Linear Property Regulation from s.603.1(3) and have it become repealed either upon the coming into force of a new regulation or on December 31, 2020	This regulation treats electric power generation plants that have the ability to sell power as linear property for assessment and taxation purposes. The Extension of Linear Property Regulation is a section 603 made regulation that expires June 30, 2017. There is a need to have the regulation remain until the matter is dealt with in the Matters Relating to Assessment & Taxation Regulation (MRAT)
New Electric Energy Exemption Regulation Elevation	Elevate the policy of this s.603 regulation directly into the *MGA,* thereby enabling the Minister by Order to exempt certain components of properties from education property tax, where those components are used for or in the generation of electricity.	The regulation enables the making of a Ministerial Order to exempt components used for or in the generation of electricity of 'electric power systems' from paying education property taxes. The Electric Energy Exemption Regulation first came into effect January 1, 2001 to provide for the consistent property assessment of all types electric power generating systems, to provide for a tax incentive that would attract industry investment, and to mitigate any adverse financial impacts for certain municipalities in a deregulated market environment for electric power generation. This regulation expires on June 30, 2017 and cannot be renewed under s.603 which provides time-limited regulation-making authority. The *Municipal Government Amendment Act* (2015) saw the elevation of other s.603 regulations in the Act; for others, new regulation-making authority was created.

Current	Proposed	Rationale
Right to enter on and inspect a property s. 294 Assessors have the right to enter and inspect property for the purpose of preparing an assessment or determining if a property is to be assessed (section 294 of the *MGA*). Assessors also have the right to compel people to provide any information necessary for the assessor to carry out their duties under the *MGA*.	Clarify the legislation so that the purposes for which assessors are permitted to inspect properties are aligned with the right of assessors to request information to carry out their duties under Parts 9-12 of the *MGA.*	Information should only be used for the purpose for which it was collected. Aligning the purposes for which an assessor may request information and perform an inspection would mean that all information in the assessors' possession can be used for the same purpose (i.e. to carry out their duties and responsibilities under the *MGA*).
Assessment information An assessed person may ask the municipality or, under the *MMGA* proposals, the provincial assessor for sufficient information to determine how the assessor prepared the assessment of that person's property. The municipality or proposed provincial assessor must comply unless the property owner has filed a complaint about their assessment and the issue has not been resolved. Under the *MMGA* proposals, assessors could compel property owners to provide records during an inspection or respond to a request for information at any time, regardless of whether an assessment on the property is under complaint.	Clarify that assessors may not compel a property owner to provide records during an inspection or respond to a request for information relative to the current assessment year if the property owner has filed a complaint about their assessment. The assessor may still request information or compel the property owner to provide records relative to the upcoming assessment year.	This amendment would create a better balance between the access to information rights of property owners and assessors. It would mean that while a complaint is active, both parties are only obliged to share information as part of the complaint process.
Subclasses Under the *MMGA* proposals, councils would be permitted to set different tax rates for sub-classes of non-residential property (as defined in the regulations). Assessors would be required to apply the sub-classes defined in the regulation to assessments even if council wishes to tax all sub-classes at the same rate.	Clarify that assessors would only be required to apply non-residential sub-classes in the assessment process if council chooses to tax the sub-classes differently.	Applying non-residential sub-classes to property assessments would require additional work and investment in information technology infrastructure for most municipalities. This amendment would allow municipalities to avoid these expenses if they choose not to use non-residential sub-classes.

Current	Proposed	Rationale
Liability Code Assessments rolls and notices are required to include a "liability code", which is assigned by the assessor (section 303(f.1)).	Remove the requirement to include a liability code on assessment rolls and notices.	This code was required because provincial auditors made use of it when auditing municipal assessments – it is not meaningful for property owners or municipalities. It is no longer required for the audit program.
Receipts Municipalities are required to provide a receipt when taxes are paid (section 342).	Clarify that municipalities will be required to provide a receipt when taxes are paid, unless otherwise advised by the property owner.	Costs associated with issuing receipts (usually by mail) may be unnecessary if property owners do not wish to receive a receipt.