



## Approved Amendments to the MGA under Bills 20 & 21

The following provides a summary of the key amendments to the Municipal Government Act (MGA) that were enacted through Bill 20 (Spring 2015) and Bill 21 (December 2016). This includes some additional information along with the perspective of CHBA – Alberta. It is important to note that this does not include every single change to the MGA, as that list would be exhaustive, rather it includes those items which will most likely have a direct impact on the industry.

### Bill 20 Amendments – Spring 2015

Bill 20 was approved in the legislature in March 2015 under the previous Progressive Conservative Government. The items addressed in the first set of amendments to the MGA were largely the issues where there was consensus between municipalities and industry:

Item	Policy Change	Notes / Impact on Industry
<b>Public Participation Policy</b>	Municipalities must adopt public participation policies that outline their approaches for engaging with stakeholders.	<ul style="list-style-type: none"> <li>This should provide clarity to applicants on the expectations surrounding public engagement on project approvals. It is important for industry to be aware of the local variations of public consultation as it can add time to the overall approval process.</li> </ul>
<b>Conduct of Elected Officials</b>	Require all municipalities to develop and adopt codes of conduct for elected officials.	<ul style="list-style-type: none"> <li>This is a positive step in enhanced municipal transparency and accountability.</li> </ul>
<b>Council Meetings</b>	Define “meeting” to include what issues may be closed to the public during council meetings and include circumstances and procedures for a “closed meeting.”	<ul style="list-style-type: none"> <li>This is a positive step in enhanced municipal transparency and accountability. Clarity has been provided in terms of what is and what is not considered a closed meeting. Municipalities will also be required to provide rationale and notification as to why a closed meeting is required and when the public is permitted to return to the meeting.</li> </ul>
<b>Public Notification Methods</b>	Add posting notifications to municipal websites to the general advertising requirements, and empower municipalities with flexibility to use electronic methods of notification.	<ul style="list-style-type: none"> <li>The change makes sense given the change in communication methods. All applicants need to be aware of the notification requirements and ensure municipalities are following them. Failure to provide notification often results in successful appeals of projects.</li> </ul>
<b>Annexation Requirements</b>	Develop annexation principles and procedures to ensure annexations occur in an efficient, timely and orderly manner.	<ul style="list-style-type: none"> <li>Bill 20 does not include any specifics related the enhanced annexation process. This will be included in a regulation which has yet to be released.</li> </ul>
<b>Hierarchy of Plans</b>	Identify within the MGA the hierarchy and relationship of statutory plans, so that each plan will be consistent with the plans above it.	<ul style="list-style-type: none"> <li>This is a very positive step in providing clarity amongst the various layers of municipal policy documents.</li> <li>There has been an attempt to somewhat erode this through a policy proposal under City Charters that would allow Calgary and Edmonton to determine which</li> </ul>

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		documents are statutory and which are not. This would lead to challenges for anyone looking for project approvals in those jurisdictions.
<b>Appeal Board Training</b>	Require Subdivision and Development Appeal Board (SDAB) members and clerks to undergo mandatory training based on a standard curriculum.	<ul style="list-style-type: none"> <li>Standardized and regulated training of appeal boards will lead to an increasingly fair and transparent municipal appeals process. Specific details related to this will be contained within a regulation that has yet to be released.</li> </ul>
<b>Corporate Planning</b>	Require municipalities to adopt, at minimum, three-year operating plans and five-year capital plans, so Albertans have greater access to information about municipal financial decisions.	<ul style="list-style-type: none"> <li>This will add increased accountability and transparency for local governments while providing clarity to developers / builders to plan investments or the construction of new communities. Additional details can be found in the regulation.</li> </ul>
<b>Voluntary Amalgamations</b>	Allow for a streamlined voluntary amalgamation process.	<ul style="list-style-type: none"> <li>Additional information related to the new process will be provided in the regulation that has yet to be released.</li> </ul>
<b>City Charters</b>	<p>Allow for the creation of civic charters, with accountabilities and powers unique to our largest municipalities. Any new charter <u>or amendments</u> to a charter must</p> <ul style="list-style-type: none"> <li>Be published to the Municipal Affairs website for at least 60 days for review; and</li> <li>Be advertised and subject to a public hearing.</li> </ul>	<ul style="list-style-type: none"> <li>Charters are being prepared as separate regulations under the MGA. Little information has been shared to-date though it is anticipated the draft Charters will be released in Summer 2017.</li> </ul>
<b>Administration of Off-Site Levies</b>	Empower municipalities to charge for each type of infrastructure separately and over time. This amendment will not impact the scope of off-site levies.	<ul style="list-style-type: none"> <li>This is a positive change as it will allow for the payment of different levies (water, sewer and stormwater) at different times in the development process. This will provide flexibility in terms of levy payments and provide opportunities to reduce financing charges.</li> </ul>

## Bill 21 Amendments – January 2016

Bill 21 (including some last minute amendments) was approved in the legislature on December 2016 under the current government. These amendments dealt predominantly with the non-consensus items that could not be agreed to under Bill 20 and include a number of changes that will directly impact our industry.

Item	Policy Change	Notes / Impact on Industry
<b>Funding New Developments (Offsite Levies)</b>	<ul style="list-style-type: none"> <li>Expand the scope of off-site levies to fund all or part of the capital costs associated with community recreation facilities, fire halls, police stations and libraries.</li> <li>Community recreation facilities are classified as “indoor municipal facilities primarily used by members of the public to participate in recreational activities at the facilities”.</li> </ul>	<ul style="list-style-type: none"> <li><b>Majority of the details with respect to this levy will be contained within a separate regulation which has yet to be released.</b></li> <li>Initially, only projects that would benefit by 30% or more from the facility would be responsible for paying the levy, the amount being based on the percent the development benefits. At the last minute the province removed the 30% threshold, meaning almost every project will be responsible for paying some form of a levy for these facilities.</li> <li>It is unclear if the levy amount will be based on the proportion a specific development benefits (i.e. if a development will receive 10% of the benefit of a new facility, it pays 10% of the levy).</li> <li>This new levy could result in an additional \$5,000 or more per unit.</li> <li>Municipalities may have the ability to charge this at the development / building permit stage. In the past levies have only been charged as part of the subdivision approval, resulting in the fee being rolled into the overall cost of the lot.</li> </ul>
<b>Conservation and Environmental Reserve</b>	<ul style="list-style-type: none"> <li>Clarify the definition and purpose of Environmental Reserve (ER).</li> <li>Create a new type of reserve, Conservation Reserve (CR), to protect lands that are considered environmentally significant lands by a municipality but cannot be designated as ER.</li> <li>A municipality must purchase any lands they would like to preserve as CR.</li> </ul>	<ul style="list-style-type: none"> <li><b>Additional details and clarity on CR and the refined definition of ER will be contained in a separate regulation (yet to be released) and potentially through additional amendments to the MGA this spring.</b></li> <li>This <u>should</u> be a very positive change for industry as it should prevent the current land grabs of features such as tree stands and non-permanent water bodies (i.e. drainage channels) but it will ultimately be dependent on the outcome of the regulation and any additional amendments.</li> <li>Depending on the final language used, ER should only be taken for significant features such as permanent waterbodies. If a municipality wants to preserve additional features, they must purchase them and preserve it as CR.</li> </ul>
<b>Inclusionary Housing</b>	<p>Enable inclusionary housing as an optional matter within municipal land use bylaws.</p>	<ul style="list-style-type: none"> <li><b>The full scale of the impact this will have on housing prices will be largely dependent on the regulation which has yet to be released.</b></li> <li>Municipalities will be able to require that a portion of all new units (potentially between 1-20%) within a development be sold at a substantially reduced cost. Conversely, municipalities may have the ability to charge cash-in-lieu (essentially another fee or levy) as an alternative.</li> </ul>

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		<ul style="list-style-type: none"> <li>CHBA – Alberta pushed for a requirement that municipalities make any inclusionary housing program “market impact neutral”. This would mean that municipalities would have to provide a variety of meaningful offsets (setback reductions, increased or decreased density, reduced landscaping requirements, fee reductions, etc.) to wholly offset any additional costs this program would add to non-inclusionary units.</li> </ul>
<b>Provincial Oversight of Municipalities</b>	Expand the mandate of the Alberta Ombudsman to include oversight of municipalities and to respond to complaints about municipalities.	<ul style="list-style-type: none"> <li>The expanded role of the Alberta Ombudsman will provide for increased accountability of municipalities, something CHBA – Alberta pushed for throughout the MGA Review.</li> <li>Developers, builders and residents will now be able to file complaints with the Ombudsman when they believe a municipality has not followed the requirements of the MGA. If the Ombudsman agrees, he / she can issue recommendations to the municipality to bring them into compliance. The Minister of Municipal Affairs can then take further action with the municipality if needed.</li> </ul>
<b>Growth Management Boards</b>	Require Growth Management Boards for the Edmonton and Calgary regions, with an expanding mandate to address land use planning and the planning, delivery and funding of regional services.	<ul style="list-style-type: none"> <li><b>The specifics, including the municipalities who will be part of the individual Growth management Boards (GMBs), have yet to be made available.</b></li> <li>CHBA – Alberta has supported increased collaboration across the province and believe a new Growth Management Board (GMB) in the Calgary Region and a modified GMB in the Edmonton Region could be positive for industry if implemented properly. The major potential concern is if Calgary and Edmonton are given veto powers over planning projects in other municipalities.</li> <li>The specifics on this (including the municipalities who will be part of the individual GMBs) but they should allow for more streamlined planning and infrastructure funding between municipalities. The planning documents associated with the GMBs will be very complex and have significant implications on the location, density and servicing of new communities. If you do work within one of these GMBs it is important you get involved in that process.</li> </ul>
<b>Intermunicipal Collaboration Frameworks</b>	Implement mandatory intermunicipal mechanisms (Intermunicipal Collaboration Frameworks) for land use planning, and for the planning, delivery and funding of regional services.	<ul style="list-style-type: none"> <li><b>Additional details will be contained in a separate regulation which has yet to be released.</b></li> <li>All neighbouring municipalities (unless they are both located in a GMB) will be required to establish Intermunicipal Collaboration Frameworks with each adjoining municipality. These agreements / documents are similar to Intermunicipal Development Plans but will have the expanded ability to address the planning and funding of regional services.</li> <li>Similar to GMB’s this should be positive for industry so long as one municipality is not given veto powers over another municipality as it relates to planning</li> </ul>

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		<p>applications. Members should pay attention to the local negotiations which will take place between municipalities as it will impact development near or at the borders of these municipalities.</p>
<b>Assessment of Farmland Intended for Development</b>	<p>Farmland will be assessed at market value once the land is no longer used for farming operations. The definition of farming operations will be updated through regulation to include the triggers that indicate when land is no longer farmed.</p>	<ul style="list-style-type: none"> <li>● <b>Until the regulations are released, it is unclear if or how this will impact our industry.</b></li> <li>● Some municipalities have pushed for the ability to tax unserved farmland that has been designated for future development at serviced residential rates. The extent of this will be largely dependent on the definition of “farming operation” put forward by the province. The result of a poor definition will be increased land costs and the premature conversion of farmland. CHBA – Alberta has pushed hard against this and will continue to do if the regulation supports this municipal initiative.</li> </ul>
<b>Municipally Controlled Corporations</b>	<p>Allow municipalities to establish municipally controlled for-profit corporations without specific permission, but legislate requirements regarding the allowable scope of those corporations and the transparency of their formation and operation.</p>	<ul style="list-style-type: none"> <li>● <b>The impact of this change will be largely dependent on the specific details of the regulation which has yet to be released.</b></li> <li>● There will be a number of elements of this regulation to monitor closely: <ul style="list-style-type: none"> <li>- Will this give municipal corporations the ability to increasingly compete with similar private industries?</li> <li>- Will the regulation require a level playing field for municipal corporations who do compete with private industry (i.e. tax / accounting requirements, no beneficial treatment regrading provincial / municipal approvals)?</li> <li>- Will there be adequate transparency and accountability provisions associated with business plans and annual reports to ensure municipal corporations are financially healthy?</li> </ul> </li> </ul>
<b>Decision Making Timelines for Development Permits</b>	<ul style="list-style-type: none"> <li>● Some municipalities have 20 days to determine whether development permit applications are complete.</li> <li>● Following a determination of a complete application, some municipalities will then have 40 days to make a decision. If the timeline is not met, the application is deemed refused.</li> <li>● Cities or municipalities with populations of 15,000 or more are allowed to set their own timelines by bylaw.</li> </ul>	<ul style="list-style-type: none"> <li>● The addition of a “complete application” process is very positive for industry. Municipalities have often stated that applications are not complete as a way to delay processing applications. This legislative tool will prevent these delays moving forward.</li> <li>● CHBA – Alberta did not support providing broad flexibility to cities and larger municipalities to set their own timelines. While we understand that there is additional complexity when dealing with larger centres, the complete flexibility provided to municipalities is concerning and provides no assurances that municipalities will start dealing with applications in an efficient manner. Members will need to work the individual municipalities to try and limit the timeframes associated with these approvals.</li> </ul>

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<b>Strengthening the Impartiality of Appeal Boards</b>	<ul style="list-style-type: none"> <li>Subdivision and Development Appeal Boards can include a maximum of one councillor (unless otherwise authorized by the Minister).</li> <li>The Chair of the MGB will be appointed by Cabinet and report to the Minister of Municipal Affairs.</li> </ul>	<ul style="list-style-type: none"> <li>This is a very positive change to the municipal appeals process. In the past Subdivision and Development Appeal Boards had no restrictions regarding the number of Councillors that could sit on these appeal bodies. In many municipalities this meant that councillors formed the majority of appeal boards. This is an inherent conflict of interest and it is very positive that it has been removed.</li> </ul>
<b>Elected Official Training</b>	Require all municipalities to offer elected officials orientation training following each municipal election, including by-elections	<ul style="list-style-type: none"> <li>The requirement to train elected officials will further strengthen municipal and help ensure elected officials are following the MGA. Additional details including training topics will be contained within a regulation which has yet to be released.</li> </ul>
<b>Incenting Brownfield (Contaminated Properties) Development</b>	Allow a municipal council to provide conditional property tax cancellations, deferrals or reductions for multiple years to identify and promote redevelopment of brownfield properties.	<ul style="list-style-type: none"> <li>Providing financial incentives to encourage the development of contaminated sites could create additional development opportunities in most municipalities.</li> </ul>
<b>Non-Statutory Planning Documents</b>	Increase transparency around planning documentation by requiring municipalities who adopt or utilize any non-statutory planning documents to list and publish all non-statutory planning documents and describe how those documents relate to each other and to other and to other statutory plans.	<ul style="list-style-type: none"> <li>This should provide increased clarity to the early planning and approval phases of projects. Currently, many municipalities have 30 or more non-statutory plans that add substantial time and complications to submitting and receiving approvals. This changes will help clarify the policies and documents applicable to a project.</li> <li>This change could be eroded in Calgary and Edmonton through City Charters. They have proposed that they have the ability to define additional types of statutory plans and how they fit into the hierarchy of plans. This could lead to the creation of an endless amount of statutory plans which would create significant policy challenges in those two cities.</li> </ul>
<b>Linking Residential and Non-Residential Tax Rates</b>	Establish a maximum ratio of 5:1 between non-residential and residential municipal property tax rates. Municipalities with ratios beyond 5:1 will be grandfathered, but will only be allowed to increase any tax rates above the ratio if they increase their tax rates below the ratio by the same percentage.	<ul style="list-style-type: none"> <li>While the majority of municipalities currently fall within 5:1 non-residential to residential tax rate, some municipalities operated at significantly higher ratios. This should not necessarily impact residential tax rates in most municipalities but it will be worth monitoring.</li> </ul>
<b>Splitting the Non-Residential Property Classes</b>	Allow the non-residential property tax class to be split into subclasses and taxed at different rates as defined in regulation. These tax rates will be subject to the maximum ratio limitations on all tax rates.	<ul style="list-style-type: none"> <li>This should not necessarily have any impact on residential tax rates but could impact heavy industrial property owners (depending on the municipality).</li> </ul>