

1. INTRODUCTION AND BACKGROUND

The Municipal Government Act (MGA) is the core piece of provincial legislation that governs how municipalities operate which includes a municipalities overall relationship with land development and home construction. The government start a review of the MGA in 2012 with the majority of changes being formally approved in late 2017. The last major review of the MGA occurred in 1994 and took 10 years.

Now that the provincial legislative process is complete, a significant amount of work will need to be done by municipalities to bring existing policies and practices in-line with the new legislation. Many of these changes have potentially significant impacts on BILD Alberta member companies and will require continued work from BILD Alberta, constituent associations and members across the province. The purpose of this document is to provide a brief overview of the key changes that have taken place and to recommend a strategy for engaging with local municipalities in the implementation process along with continued support from BILD Alberta.

2. CONTINUED SUPPORT FROM BILD ALBERTA

While the majority of BILD Alberta's advocacy work with the Government of Alberta on the MGA is now complete, we will continue to advocate for amendments on issues that come forward through municipal implementation of the new policies. We will also assist constituent associations and member companies in understanding the changes to the legislation and help advocate for policies at the local level to help minimize the impact on member companies and housing affordability.

A critical aspect of implementing the MGA will involve collaborating and sharing knowledge between members and constituent associations. Understanding local advocacy approaches that have worked and those that have experienced push back from municipalities will help others in their work.

The following provides the continued service BILD Alberta will provide as it relates to the MGA:

1. Facilitate an MGA Implementation Working Group with representatives from each of the constituent associations.

- Attendees could be a staff representative, board member or a general member who has an interest in the MGA process and its local implications.
- We anticipate monthly conference calls to share progress on various policy matters and advocacy approaches with discussions on the interpretation of MGA policies.

2. Provide interpretations of specific MGA policies based on our experience in the development of the legislation.

- Interpretation of policies within the new MGA will be a considerable issue in the coming years. Industry and various municipalities will likely have differing opinions on what certain policies mean and how they can be used or enforced. In most cases, consistency and predictability will benefit all parties.
- We have been involved throughout the process of the MGA Review and have direct knowledge of the intent and purpose of the relevant policies that have changed. Our relationship with Municipal Affairs, AUMA and AAMDC will allow us to have discussions on the interpretation of specific policy areas to help provide municipalities and members with clarity on the use of specific provisions within the MGA.

3. Presentations to local Board of Directors or the membership on the key changes that have occurred and what they mean.

- We are open to any invitation to present to local memberships or boards on the overall changes to the MGA and what they mean to individual members.

4. Assistance in developing key messaging, communications and advocacy strategies.

- Over the past five years we have researched and developed key messages surrounding the majority of key issues associated with the MGA Review. This includes numerous submissions that have been prepared and can be found on our [website](#). This messaging is available to all members and can be tailored within the context of the applicable municipality or issue you are dealing with.
- We estimate that the new policies under the MGA could lead to between \$10,000 and \$60,000 of new costs per home. Based on this we have completed an analysis of the impacts of a \$10,000, \$30,000 and \$60,000 increase to the cost of entry level housing for each constituent association. This information shows how many people would be unable to afford more entry level homes as a result of the increased costs. This information can be used to help develop key messages about some of the more costly elements of the MGA.

3. SUGGESTED ACTIONS FOR CONSTITUENT ASSOCIATIONS

The scale of change the results from the revised MGA will vary from municipality to municipality. While many municipalities will use their new powers to their full extent, others may take a more measured approach to avoid disruptions to local development and home building. With this in mind, it will be critical to engage with local governments as soon as possible to determine their overall approach to implementing the changes in the MGA. The following provides some recommendations that constituent associations can consider:

1. Identify the key issues that will impact your industry locally.

- A breakdown of our some key issues is highlighted in Section 4 and details surrounding the majority of the changes can be found [here](#).

2. Determine the timelines for the municipality to move forward on key items.

- A number of the MGA changes are time sensitive while others have been left open ended. Identifying the municipality's priorities will allow constituent associations to determine short, medium and long term areas of focus from an advocacy perspective.

3. Establish a municipal staff / industry working group focussed on the MGA.

- While a working group of some form may already exist, establishing regular lines of communication between municipal staff and industry will be critical in understanding the municipality's timelines and approach for the various new tools. This should also assist in providing industry the ability to shape policy in a way that minimizes the impact to the greatest extent possible.

4. Develop messaging surrounding key issues for use in advocacy with municipal politicians and staff.

- This can be based on key messaging and research previously prepared by BILD Alberta which is at the disposal of all constituent associations.

5. Share information provincially.

- BILD Alberta will be tracking and sharing information surrounding what is happening across our constituent associations which will help others learn how policies are being used and effective advocacy strategies.

4. KEY ISSUES

The key issues that come from the new powers provided under the MGA will vary for each municipality and we recommend reviewing the provincial [fact sheets](#) highlighting most of the major changes that took place. Based on BILD Alberta's involvement throughout the entire MGA Review process, we anticipate the below issues being of central interest to members in the majority of municipalities. Contact BILD Alberta to discuss any issue in greater detail.

Development (Off-Site) Levies for Community Facilities

What is changing?

- Municipalities have the ability to collect off-site levies to cover all or part of the capital cost of new or expanded community facilities, including:
 - community recreation facilities (defined as: indoor municipal facilities used primarily by members of the public to participate in recreational activities conducted at the facilities).
 - fire halls;
 - police stations; and
 - libraries.
- The amount of any levy associated with the above facilities must correlate to the degree of benefit of the individual development. This is a critical aspect of this levy that should not be lost as constituent associations and member companies engage with municipalities on new Levy Bylaws. The details surrounding how area of benefit and degree of benefit are determined will largely determine the scale of impact of this policy.

Who will be impacted?

- **Developers:** Levies have historically been charged to developers. The costs associated with the above facilities are substantial and will have the potential to lead to increased costs of \$10,000 or more per lot.
- **Builders:** While builders have traditionally not paid for levies directly, the cost which is generally paid for by developers initially is built into the overall cost of a building lot. For the new levies, municipalities have the ability to charge this fee at the development/building permit stage which means builders may have to pay this directly.

Inclusionary Housing (yet to be finalized)

What is changing?

- Municipalities will have the flexibility to include inclusionary housing as an option within their land-use bylaws.
- A regulation is currently in development which should include specifics related to:
 - the number of units in a development before inclusionary housing could be applied;
 - the minimum offsets (or compensation) for providing units;
 - the collection and use of cash-in-lieu if developers and municipalities determine affordable housing isn't the best option for a project and funds are arranged instead;
 - the sale or reuse of units if they are sold for lower-than-market rates;
 - transparency and accountability; and
 - other matters as required.

Who will be impacted?

- **Builders and Developers:** While details have yet to be released, inclusionary housing has the potential to add \$3,000 or more to the cost of market homes either through a requirement to provide physical units at a discounted rate or direct cash-in-lieu of units to a municipality. This can be implemented either at the

subdivision or the development permit stage. The scale of the impact of this policy will not be known until the draft regulation is released.

Provincial Transportation Levy (yet to be finalized)

What is changing?

- Municipalities may establish off-site levies to help fund highway connectors (interchanges) that are required as a result of new development. The amount of the levy is based on the degree of benefit for a particular project.
- Details surrounding this levy will be provided through amendments to the Off-Site levies Regulation which are not yet finalized. BILD Alberta continues to work with Municipal Affairs and Alberta Transportation in developing strategies to address the funding of highway interchanges.

Who will be impacted?

- **Developers and Builders:** The levy has the potential to add thousands of dollars to the cost of homes. Notwithstanding the added costs, there could be additional delays in projects near highway interchanges as the challenges associated with the upfront funding of the infrastructure have yet to be addressed by the province.

Provincial Transportation Referrals

What is changing?

- Subdivision applications within 1.6 km of a provincial highway must be contained within an area structure plan satisfactory to the Minister of Transportation at the time of subdivision. This is a secondary referral requirement for subdivision applications near highway interchanges.

Who will be impacted?

- **Developers and Builders:** While Area Structure Plans near highways already must be approved by the Ministry of Transportation, this is a secondary referral/review process for subdivision applications. The radius of applicable projects has also expanded and the end result will be substantially more applications being referred to the Ministry of Transportation for comment. Without additional staff to manage the influx of new application referrals, there will potentially be additional delays on subdivision applications.

Decision Making Timelines

What is changing?

- A clause was added to the approval process where municipalities must deem an application complete or incomplete.
- Cities and municipalities with a population of 15,000 or more: can set their own timelines (subject to an approved bylaw) for when an application is deemed complete and when an application decision must be made.
- All other Municipalities:
 - Municipalities have 20 days to determine the completeness of a subdivision or a development permit application. If the subdivision or development authority does not make a decision on the completeness of the application with the 20 days, the application is deemed to be complete.
 - If an application is deemed incomplete the applicant may submit the information identified by the subdivision or development authority to complete the application within the time specified.
 - If the information is submitted and the application is deemed complete the subdivision or development authority must issue the applicant a notice of decision within 40 days for a development permit or 60 days for a subdivision application.

Who will be impacted?

- **Developers and Builders:** Cities and larger municipalities now have greater flexibility to dictate timeframes associated with subdivision and development permit applications. Members and constituent associations will need to continue working with municipalities to reduce the complexity and overall timelines often associated with these processes.

Environmental and Conservation Reserve

What is changing?

- The MGA contains modified language surrounding the purpose and definition of Environmental Reserve (ER). The language removes the ability for municipalities to define tree stands and seasonal drainage channels as ER. This was achieved through revisions to the definition of “body of water” and reference to “bed and shore” as defined in the Surveys Act. ER will now be limited to:
 - permanent or naturally occurring bodies of water (rivers, streams, watercourse or lakes);
 - land that is subject to flooding or is, in the opinion of the subdivision authority, unstable; or
 - a strip of land, not less than six metres in width, abutting the bed and shore of any body of water.
- Municipalities will have the ability to purchase lands not deemed to be ER at market value at the time of subdivision. These lands would be designated Conservation Reserve (CR) and purchased by the municipality following subdivision approval.

Who will be impacted?

- **Developers:** the change should prevent land grabs from municipalities on features such as seasonal drainage channels and tree stands. Members need to be aware of this change as it may not have been noted by individual municipalities at this stage. If a municipality decides to purchase property as CR, developers should attempt to get a binding agreement on the purchase at the planning stage of the development.

Code of Conduct for Elected Officials

What is changing?

- Municipalities must establish a code of conduct bylaw that governs councillors and covers the following topics:
 - representing the municipality;
 - communicating on behalf of the municipality;
 - respecting the decision-making process;
 - adherence to policies, procedures and bylaws;
 - respectful interactions with councillors, staff, the public and others;
 - confidential information;
 - conflicts of interest;
 - improper use of influence;
 - use of municipal assets and services; and
 - orientation and other training attendance.
- It is important to note, nothing within the legislation dictates what must be included to address the above topics. Specifically, nothing in the legislation prevents or discourages applicants from meeting with elected officials.

Who will be impacted?

- **Developers and Builders:** It appears the interpretation of this policy has already created issues in a number of municipalities. Councillors have begun to cite this policy as a reason why they cannot meet with member

companies. It is critical that elected officials understand that this a recommendation of their staff, not something that is required under the legislation.

Linking Residential and Non-Residential Tax Rates (yet to be finalized)

What is changing?

- The MGA has been amended so that the highest non-residential tax rate can be no more than five times the lowest residential tax rate. Within this 5:1 ratio, municipalities will continue to be able to set their own tax rates.
- A subsequent, yet-to-be released, regulation will detail required timelines for municipalities to bring their tax rates in line the legislated limit.

Who will be impacted?

- **Developers and Builders:** Members and constituent associations in regions with high industrial tax rates will be significantly impacted by this change. In heavy industrial areas of Alberta, municipalities are largely reliant on the tax revenue generated by these facilities and operations. The loss of this revenue will significantly impact a municipality's ability to fund growth and infrastructure improvements and could result in significant increases to residential tax rates within these municipalities.

Regional Collaboration

What is changing?

- A Growth Management Board will be established in the Calgary Region similar manner to the existing Capital Region Board in the Edmonton Region. Both Growth Management Boards will have the expanded role of addressing the shared funding of infrastructure and services within the respective regions.
- All municipalities not within a Growth Management Board will be required to adopt an intermunicipal collaboration framework (ICF) with each municipality they share a common border with by April 1, 2020. ICFs must:
 - provide for integrated and strategic planning, delivery and funding of intermunicipal services;
 - steward scarce resources efficiently in providing local services; and
 - ensure municipalities contribute funding to services that benefit their residents.
- The framework must address the following services:
 - transportation;
 - water and wastewater;
 - solid waste;
 - emergency services;
 - recreation; and
 - any other services that benefit residents in more than one of the municipalities that are parties to the framework.

Who will be impacted?

- **Builders & Developers:** regional collaboration should improve relationships in many regions and provide for shared funding, which will be positive for our industry. However, depending on how preliminary discussions proceed there is the potential for projects that lie on or near the boundaries of two municipalities to be delayed as these frameworks or agreements are negotiated.

Assessment of Farmland

What is changing?

- Farmland will be taxed as farmland until topsoil has been removed at which point it can be taxed at market value. The relevant regulation now specifies that land which has been stripped of topsoil in preparation for future development cannot be farmed and therefore does not fall within the definition of farming operations for taxation purposes.

Who will be impacted?

- **Developers:** With clarified legislation surrounding this change, developers will need to be more strategic in how they undertake preliminary earth works to avoid substantial increases to their taxes on undeveloped farmland.

Enhanced Role of Alberta Ombudsman

What is changing?

- The Alberta Ombudsman will now be able to investigate complaints to determine whether a municipality acted fairly and reasonably, and whether its actions and decisions were consistent with relevant legislation, policies and procedures.
- The Ombudsman is an impartial and neutral organization, and does not advocate for either the municipality or the complainant. The Ombudsman cannot overturn a municipal policy decision, but may review the process that led to that decision.

Who will be impacted?

- **Builders & Developers:** The modified role of the Alberta Ombudsman has provided an additional avenue for all members to raise concerns about municipalities who may have acted in contravention to the MGA. Prior to this change, the method to challenge actions of a municipality was largely limited to the Court of Queen's Bench which is an extremely costly process. While the Ombudsman cannot overturn decisions, they provide recommendations which can be acted on at the discretion of the Minister of Municipal Affairs if a municipality refuses to comply.

5. Contact

If you have questions or would like to request assistance from BILD Alberta during this process, please contact Scott Fash, Director of Planning & Development, at scott.fash@bildalberta.ca or 780-424-5890 ext. 224.