



Preliminary Analysis of City Charters

August 24, 2017

The following provides a high level analysis of key draft policies contained within the City Charters which were recently released. While there may be additional policies of concern, this document touches on those that have been identified as having potentially the greatest impact on our industry. BILD Calgary is regularly meeting with City of Calgary Staff and has prepared messaging to address Charters issues specific to Calgary. CHBA – Edmonton Region and UDI-Edmonton Region are actively discussing the Charters with City of Edmonton Staff and UDI – ER has scheduled meetings later this month to work through the details and potential implementation.

Member advocacy will be critical in the coming weeks if we are to overturn or modify the most concerning of these policies so please stay tuned for additional information. To review the draft City Charters in their entirety please click [here](#) and contact [Scott Fash](#) if you have any questions or suggestions.

Building Code Energy Excellence

Summary of Draft Policy

Enables the cities to supplement existing safety code requirements in order to help achieve environmental objectives.

BILD Alberta Preliminary Comments

The proposed policy will allow for the creation of essentially separate building codes in Calgary and Edmonton which is likely the most ill-thought out component of the entire Municipal Government Act Review / City Charter process. Through a review of the policy and the relevant provisions of the Safety Codes Act, Calgary and Edmonton will have the broad authority to change the building code requirements so long as the changes relate to the environment. Despite our repeated warnings of the disastrous consequences of this policy, the Province has left it in place for now. It is critical that our industry makes its voice heard on this item as it will have considerable impacts on the cost of building a home if implemented.

New Environmental Policy Powers

Summary of Draft Policy

New policies under City Charters will provide Calgary and Edmonton with increased authority to consider the environment in land use decisions. The cities will also be able to pass bylaws related to the environment, specifically:

- contaminated, vacant, derelict or under-utilized sites;
- climate change adaptation and greenhouse gas emission reduction;
- environmental conservation and stewardship;
- the protection of biodiversity and habitat;
- the conservation and efficient use of energy; and
- waste reduction, diversion, recycling and management.

BILD Alberta Preliminary Comments

Our understanding is that this policy is not intended to allow municipalities to supersede or create additional barriers related to Provincial environmental approvals, though the broadness of the policy is worrisome. As an example, we are concerned that the cities could use these powers to override Provincial decisions related to wetlands or to ignore newly established requirements related to Environmental Reserve and Conservation Reserve. We will be seeking additional clarity from the Province and more explicit language to clearly states that Provincial environmental policies and approvals will remain the law of the land.

Statutory Plans

Summary of Draft Policy

Calgary and Edmonton are being given the authority to designate any plan as a statutory plan. The only requirement will be that the cities must identify how these plans will interact with other statutory plans. Under the *Municipal Government Act* statutory plans were limited to Intermunicipal Development Plans, Municipal Development Plans, Area Structure Plans and Area Redevelopment Plans.

BILD Alberta Preliminary Comments

This is a highly problematic policy that has the potential to add significant costs and red tape to projects. In Calgary, there are approximately 45 non-statutory plans. Through a relatively simple process those would all now be considered statutory documents. This would mean in preparing any development application you could be subject to reviewing and complying with close to 40 statutory plans. As inefficient and unnecessary as this new power is, the Province has been unwilling to listen to reason so it will be up to members locally to try and limit the scope and number of these new statutory plans.

Land Use Bylaws

Summary of Draft Policy

Gives Calgary and Edmonton the authority to determine permitted uses across districts in their land use bylaws. The Cities will continue to be required to outline a process for development permits.

BILD Alberta Preliminary Comments

The Province nor cities have never outlined why this process is needed given the requirements for Land Use Bylaws under the Municipal Government Act are already extremely broad. The amount of authority given to the Cities with regards to the development permit application process is concerning given past experiences with excessive delays in approvals. Local associations generally work with cities almost daily on ways to help decrease approval timeframes and this will need to remain a focus in the years to come.

Subdivision Process

Summary of Draft Policy

Allows the Cities to determine their own requirements for subdivision applications and matters that a subdivision authority must consider in making a decision.

BILD Alberta Preliminary Comments

Additional subdivision powers should not be considered as part of City Charters. These matters were addressed extensively in the MGA Review and will be further addressed with revisions to the Subdivision and Development Regulation which has already been consulted on. Despite our opposition, the Province appears to be granting Calgary and Edmonton free rein with the subdivision process (including appeals). Local associations and members will have to work closely with the cities to prevent any further delays in approvals in the future.

Environmental Reserve Assessment

Summary of Draft Policy

Clarifies that environmental reserve is assessed on a vacant parcel at the time of subdivision.

BILD Alberta Preliminary Comments

This appears to provide the ability for the Cities to charge taxes against a parcel that will become Environmental Reserve, even if there is an Environmental Reserve Agreement in place. This provision appears to be an attempt to take additional taxes which we will firmly oppose in discussions with the Province.

Bylaw Fines

Summary of Draft Policy

Calgary and Edmonton will have the power to administer fines up to \$100,000 for any offence deemed to be “egregious”. Under the *Municipal Government Act* fines are limited to \$10,000. This increased fine can be used in instances where the Council deems the smaller fine would be:

- insufficient to deter others from committing the offence due to the amount of profit that could be achieved as a result of committing the offence;
- insufficient due to the magnitude or extent that the offence harms the public or any person; or
- insufficient based on the inherent nature of the offence.

BILD Alberta Preliminary Comments

The Province needs to further outline a definition of egregious offence. Based on the limited and broad language of the policy, a municipality could have grounds to apply the “egregious offence” designation to any bylaw infraction. While we are not opposed to larger fines for those who commit significant offences, without a definition of what constitutes “egregious offences” it could simply become the standard fine applied by Calgary and Edmonton anytime a developer or builder makes a mistake.

Delegation of Powers

Summary of Draft Policy

Calgary and Edmonton City Councils will be permitted to delegate responsibilities to any person or group of people to ensure that councils focus on important municipal matters while reducing time spent on administrative tasks. Councils will still be required to debate and vote on all matters to pass bylaws, appoint the Chief Administrative Officer, and adopt budgets, along with a number of other important council duties.

BILD Alberta Comments

This policy item has the potential to be both positive and negative for industry. While the proposed change will enable council’s to more easily remove red tape on some matters, it could remove elements of transparency and fairness with approvals (if abused by certain individuals). It will be critical that local associations work with their Council and City Staff to identify the planned use of this tool and how transparency and accountability measures can be put in place.

Tax Subclass for Derelict and Contaminated Properties

Summary of Draft Policy

Allows Calgary and Edmonton to define additional assessment subclasses for derelict and contaminated property.

BILD Alberta Comments

The only concern with the proposed policy is that it allows the cities to define “derelict” and establish the criteria or level for what determines a contaminated property. Derelict should be something clearly defined in the Charter so its scope cannot be expanded beyond what is intended. For contaminated properties, the Charters should be tied back into existing brownfield legislation in terms of what is considered a contaminated site.

Catch-All Assessment Class

Summary of Draft Policy

Amends the definitions for “residential” and “non- residential” property classes, making the non-residential property class the default.

BILD Alberta Preliminary Comments

This will require members to look closely at their assessments in the years immediately following the implementation of Charters to ensure that properties, or portions thereof, have not been incorrectly designated as non-residential and subject to a higher tax rate.

Supplementary Assessments of Land

Summary of Draft Policy

When a property or portion of a property changes from farm land to another assessment class mid-way through the year, Calgary and Edmonton will be permitted to reassess that parcel or portion of a parcel and tax it under its new classification for the rest of the tax year.

BILD Alberta Preliminary Comments

As part of the MGA Review municipalities pushed to have increased powers to tax farmland converted or planned for future development. This would have enable them to tax lands still being farmed at serviced residential or commercial rates. This was not approved but Calgary and Edmonton have been granted the authority to change the classification of a piece of land if it is converted from farmland part way through the year. Our understanding is that additional clarification related to the conversion of farmland will be provided in other regulations, specifically tying it to the removal of top soil.

Climate Change Mitigation and Adaptation Plans

Summary of Draft Policy

Requires Calgary and Edmonton to develop climate change mitigation and adaptation plans to ensure the Cities are doing their parts to mitigate and address the impacts of climate change.

BILD Alberta Preliminary Comments

It is unclear why this policy is required under as there is nothing preventing Calgary and Edmonton from preparing these documents under existing legislation. Other Provinces who have mandated Climate

Change Mitigation and Adaptation Plans have tied them to funding which would be a more effective tool. While this should not directly impact industry, this plan will inform subsequent bylaws related to the environment and potentially amendments to other critical local statutory plans. It will be critical that members be actively engaged in the preparation and subsequent implementation of these plans.