



Province of Alberta

# **MUNICIPAL GOVERNMENT ACT**

Revised Statutes of Alberta 2000  
Chapter M-26

Current as of December 11, 2013

Office Consolidation

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### Note

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### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2012 cE-0.3 s279 amends s1(1)(m)(iv), repeals and substitutes s55(1)(b), amends ss250(2)(b), 284(1), 303(g), 326(a), 362(1), 369(2.1), 392(4), 596(1)(b), 616(bb).

### Regulations

The following is a list of the regulations made under the *Municipal Government Act* that are filed as Alberta Regulations under the Regulations Act.

|   | <b>Alta. Reg.</b> | <i>Amendments</i> |
|---|-------------------|-------------------|
| <b>Municipal Government Act</b>   |                   |                   |
| Aeronautics Act Agreements (City of Medicine Hat and Cypress County) .....            |                   | 33/2014           |
| <i>NOTE: AR 33/2014 is subject to repeal in accordance with s603(2) of the Act</i>    |                   |                   |
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| Edmonton International .....  | 55/2006           |                   |
| Alberta Central East Water Corporation .....  | 137/2013          |                   |
| <i>NOTE: AR 137/2013 is subject to repeal in accordance with s603.1(3) of the Act</i> |                   |                   |
| APEX Plus Investment  |                   |                   |
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| <i>NOTE: AR 205/2013 is subject to repeal in accordance with s603.1(3) of the Act</i> |          |   |
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| <i>NOTE: AR 214/2011 is subject to repeal in accordance with s603.1(3) of the Act</i> |          |   |
| Canmore Undermining Exemption<br>from Liability .....                                 | 113/97   | 221/2004  |
| Canmore Undermining Review .....  | 114/97   | 132/97, 206/2001,<br>221/2004, 176/2006,<br>54/2011, 170/2012 |
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| <i>NOTE: AR 159/2012 is subject to repeal<br/>in accordance with s603.1(3) of the Act</i> |          |  |
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| <i>NOTE: AR 153/2012 is subject to repeal<br/>in accordance with s603.1(3) of the Act</i> |          |  |
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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Interpretation**

**1(1)** In this Act,

- (a) “business” means
  - (i) a commercial, merchandising or industrial activity or undertaking,
  - (ii) a profession, trade, occupation, calling or employment, or
  - (iii) an activity providing goods or services,  
whether or not for profit and however organized or formed, including a co-operative or association of persons;
- (b) “by-election” means an election to fill a vacancy on a council other than at a general election;
- (c) “chief administrative officer” means a person appointed to a position under section 205;
- (d) “chief elected official” means the person elected or appointed as chief elected official under section 150;

- (e) “council” means
  - (i) the council of a city, town, village, summer village, municipal district or specialized municipality,
  - (ii) repealed 1995 c24 s2,
  - (iii) the council of a town under the *Parks Towns Act*, or
  - (iv) the council of a municipality incorporated by a special Act;
- (f) “council committee” means a committee, board or other body established by a council under this Act;
- (g) “councillor” includes the chief elected official;
- (h) “designated officer” means a person appointed to a position established under section 210(1);
- (i) “elector” means a person who is eligible to vote in the election for a councillor under the *Local Authorities Election Act*;
- (j) “enactment” means
  - (i) an Act of the Legislature of Alberta and a regulation made under an Act of the Legislature of Alberta, and
  - (ii) an Act of the Parliament of Canada and a statutory instrument made under an Act of the Parliament of Canada,but does not include a bylaw made by a council;
- (k) “general election” means an election held to fill vacancies on council caused by the passage of time, and includes a first election;
- (k.1) “growth management board” means a growth management board established under Part 17.1;
- (l) “Land Compensation Board” means the Land Compensation Board established under the *Expropriation Act*;
- (m) “local authority” means
  - (i) a municipal authority,
  - (ii) a regional health authority under the *Regional Health Authorities Act*,

- (iii) a regional services commission, and
- (iv) the board of trustees of a district or division as defined in the *School Act*;
- (n) “market value” means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer;
- (o) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (p) “municipal authority” means a municipality, improvement district and special area and, if the context requires, in the case of an improvement district and special area,
  - (i) the geographical area of the improvement district or special area, or
  - (ii) the Minister, where the improvement district or special area is authorized or required to act;
- (q) “Municipal Government Board” means the Municipal Government Board established under Part 12, and includes any panel of the Board;
- (r) “municipal purposes” means the purposes set out in section 3;
- (s) “municipality” means
  - (i) a city, town, village, summer village, municipal district or specialized municipality,
  - (ii) repealed 1995 c24 s2,
  - (iii) a town under the *Parks Towns Act*, or
  - (iv) a municipality formed by special Act,or, if the context requires, the geographical area within the boundaries of a municipality described in subclauses (i) to (iii);
- (t) “natural person powers” means the capacity, rights, powers and privileges of a natural person;
- (u) “owner” means
  - (i) in respect of unpatented land, the Crown,

- (ii) in respect of other land, the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land, and
  - (iii) in respect of any property other than land, the person in lawful possession of it;
- (v) “parcel of land” means
- (i) where there has been a subdivision, any lot or block shown on a plan of subdivision that has been registered in a land titles office;
  - (ii) where a building affixed to the land that would without special mention be transferred by a transfer of land has been erected on 2 or more lots or blocks shown on a plan of subdivision that has been registered in a land titles office, all those lots or blocks;
  - (iii) a quarter section of land according to the system of surveys under the *Surveys Act* or any other area of land described on a certificate of title;
- (w) “pecuniary interest” means pecuniary interest within the meaning of Part 5, Division 6;
- (x) “population” means population as defined and determined in accordance with the regulations;
- (y) “public utility” means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:
- (i) water or steam;
  - (ii) sewage disposal;
  - (iii) public transportation operated by or on behalf of the municipality;
  - (iv) irrigation;
  - (v) drainage;
  - (vi) fuel;
  - (vii) electric power;
  - (viii) heat;
  - (ix) waste management;



- (x) residential and commercial street lighting,  
and includes the thing that is provided for public consumption, benefit, convenience or use;
- (y.1) “regional services commission” means a regional services commission under Part 15.1;
- (z) “road” means land
  - (i) shown as a road on a plan of survey that has been filed or registered in a land titles office, or
  - (ii) used as a public road,and includes a bridge forming part of a public road and any structure incidental to a public road;
- (aa) “tax” means
  - (i) a property tax,
  - (ii) a business tax,
  - (iii) a business revitalization zone tax,
  - (iii.1) a community revitalization levy,
  - (iv) a special tax,
  - (v) a well drilling equipment tax,
  - (vi) a local improvement tax, and
  - (vii) a community aggregate payment levy;
- (bb) “taxpayer” means a person liable to pay a tax;
- (cc) “whole council” means
  - (i) all of the councillors that comprise the council under section 143,
  - (ii) if there is a vacancy on council and the council is not required to hold a by-election under section 162 or 163, the remaining councillors, or
  - (iii) if there is a vacancy on council and the Minister orders that the remaining councillors constitute a quorum under section 160 or 168, the remaining councillors.

- (2) For the purposes of this Act, a municipality or group of municipalities controls a corporation if
- (a) the municipality or group of municipalities hold, other than by way of security only, securities of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation and, if exercised, are sufficient to elect a majority of the directors of the corporation, or
  - (b) all or a majority of its members or directors are appointed by the municipality or group of municipalities.

RSA 2000 cM-26 s1;2005 c14 s2;2013 c17 s2

#### **Application of Act**

**2(1)** This Act applies to all municipalities and improvement districts.

(2) If there is an inconsistency between this Act and

- (a) repealed 1995 c24 s3,
- (b) the *Parks Towns Act*, or
- (c) a special Act forming a municipality,

the other Act prevails.

1994 cM-26.1 s2;1995 c24 s3

## **Part 1 Purposes, Powers and Capacity of Municipalities**

#### **Municipal purposes**

**3** The purposes of a municipality are

- (a) to provide good government,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
- (c) to develop and maintain safe and viable communities.

1994 cM-26.1 s3

#### **Corporation**

**4** A municipality is a corporation.

1994 cM-26.1 s4

#### **Powers, duties and functions**

**5** A municipality

- (a) has the powers given to it by this and other enactments,
- (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
- (c) has the functions that are described in this and other enactments.

1994 cM-26.1 s5

**Natural person powers**

**6** A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

1994 cM-26.1 s6

## **Part 2 Bylaws**

### **Division 1 General Jurisdiction**

**General jurisdiction to pass bylaws**

**7** A council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including unsightly property;
- (d) transport and transportation systems;
- (e) businesses, business activities and persons engaged in business;
- (f) services provided by or on behalf of the municipality;
- (g) public utilities;
- (h) wild and domestic animals and activities in relation to them;
- (i) the enforcement of bylaws made under this or any other enactment, including any or all of the following:

- (i) the creation of offences;
- (ii) for each offence, imposing a fine not exceeding \$10 000 or imprisonment for not more than one year, or both;
- (iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence;
- (iv) providing that a specified penalty prescribed under section 44 of the *Provincial Offences Procedure Act* is reduced by a specified amount if the penalty is paid within a specified time;
- (v) providing for imprisonment for not more than one year for non-payment of a fine or penalty;
- (vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
- (vii) providing for inspections to determine if bylaws are being complied with;
- (viii) remedying contraventions of bylaws.

1994 cM-26.1 s7

**Powers under bylaws**

**8** Without restricting section 7, a council may in a bylaw passed under this Division

- (a) regulate or prohibit;
- (b) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;
- (c) provide for a system of licences, permits or approvals, including any or all of the following:
  - (i) establishing fees for licences, permits and approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue;

- (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality;
  - (iii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval has been granted;
  - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions and who may impose them;
  - (v) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them;
  - (vi) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;
- (c.1) establish and specify the fees, rates, fares, tariffs or charges that may be charged for the hire of taxis or limousines;
  - (d) provide for an appeal, the body that is to decide the appeal and related matters.

1994 cM-26.1 s8;1998 c24 s2

#### **Guides to interpreting power to pass bylaws**

**9** The power to pass bylaws under this Division is stated in general terms to

- (a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and
- (b) enhance the ability of councils to respond to present and future issues in their municipalities.

1994 cM-26.1 s9

#### **Bylaw passing powers in other enactments**

**10(1)** In this section, “specific bylaw passing power” means a municipality’s power or duty to pass a bylaw that is set out in an enactment other than this Division, but does not include a municipality’s natural person powers.

**(2)** If a bylaw could be passed under this Division and under a specific bylaw passing power, the bylaw passed under this Division

is subject to any conditions contained in the specific bylaw passing power.

**(3)** If there is an inconsistency between a bylaw passed under this Division and one passed under a specific bylaw passing power, the bylaw passed under this Division is of no effect to the extent that it is inconsistent with the specific bylaw passing power.

1994 cM-26.1 s10

#### **Relationship to natural person powers**

**11(1)** Despite section 180(2), a municipality may do something under its natural person powers even if the thing could be done under a bylaw passed under this Division.

**(2)** Section 7(i) does not apply to a bylaw passed under a municipality's natural person powers.

1994 cM-26.1 s11

## **Division 2 Scope of Bylaws**

#### **Geographic area of bylaws**

**12** A bylaw of a municipality applies only inside its boundaries unless

- (a) one municipality agrees with another municipality that a bylaw passed by one municipality has effect inside the boundaries of the other municipality and the council of each municipality passes a bylaw approving the agreement, or
- (b) this or any other enactment says that the bylaw applies outside the boundaries of the municipality.

1994 cM-26.1 s12

#### **Relationship to Provincial law**

**13** If there is an inconsistency between a bylaw and this or another enactment, the bylaw is of no effect to the extent of the inconsistency.

1994 cM-26.1 s13

### Part 3 Special Municipal Powers and Limits on Municipal Powers

#### Division 1 Expropriation

##### Expropriation powers

**14(1)** In this section, “organization” means any of the following organizations in which the municipality is a member or has acquired shares:

- (a) a society under the *Societies Act*;
- (b) an association registered under Part 9 of the *Companies Act*;
- (c) a corporation under the *Business Corporations Act* that is a charity or operates for non-profit purposes;
- (d) a corporation that operates for the purpose of making a profit and that is controlled by one or more municipalities, if the control is in accordance with the regulations under section 73.

**(2)** If a council wants to acquire an estate or interest in land, inside or outside the municipality

- (a) for a purpose authorized by an enactment,
- (b) to carry out an area redevelopment plan under Part 17, whether undertaken by the municipality alone or in conjunction with another person,
- (c) to improve land owned by the municipality,
- (d) for the purpose of selling the land as building sites,
- (e) to enable an organization to carry out a development as defined in Part 17 or a redevelopment, or
- (f) for any other municipal purpose,

it may acquire the estate or interest in the land by expropriation under the *Expropriation Act*.

**(3)** No council may expropriate an estate or interest in mines or minerals.

**(4)** The expropriation of an estate or interest in land that is outside the municipality is subject to section 72.

(5) When the council is of the opinion that the municipality can obtain a more reasonable price or other advantage by acquiring the whole or a larger portion of any parcel of land of which a part may be expropriated by the municipality, the municipality may expropriate the whole or the larger portion of the parcel.

1994 cM-26.1 s14;1995 c24 s4

#### **Expropriating part of a parcel**

**15(1)** If a municipality's notice of intention to expropriate proposes to expropriate a portion of a parcel of land, the owner of the parcel may apply to the Land Compensation Board to direct the municipality to expropriate the whole of the parcel.

(2) The Land Compensation Board may direct the municipality to expropriate the whole of the parcel of land if, in the opinion of the Board, the expropriation of a part of the parcel is unfair to the owner of the parcel.

1994 cM-26.1 s15

## **Division 2 Roads**

#### **Title to roads**

**16(1)** The title to all roads in a municipality, other than a city, is vested in the Crown in right of Alberta.

(2) The title to all roads in a city is vested in the city unless another Act or agreement provides otherwise.

(3) Nothing in this section gives a city title to mines and minerals.

1994 cM-26.1 s16

#### **Disposal of estate or interest in roads**

**17(1)** Subject to any other Act or agreement, the council of a city has the power and is deemed always to have had the power to dispose of an interest in a road in the city so long as the disposition does not amount to a sale or lease or require a road closure under section 22.

(2) No interest disposed of under subsection (1) may be registered in a land titles office.

1994 cM-26.1 s17

#### **Control of roads**

**18(1)** Subject to this or any other Act, a municipality has the direction, control and management of all roads within the municipality.

(2) Subject to this or any other Act, a municipal district also has the direction, control and management of roads and road diversions surveyed for the purpose of opening a road allowance as a



diversion from the road allowance on the south or west boundary of the district although the roads or road diversions are outside the boundaries of the municipal district.

(3) Nothing in this section gives a municipality the direction, control and management of mines and minerals.

1994 cM-26.1 s18

#### **Rocky Mountains Forest Reserve**

**19** In The Municipal District of Bighorn No. 8 and Clearwater County, the Minister of Transportation has the direction, control and management of roads within the Rocky Mountains Forest Reserve constituted under the *Forest Reserves Act*.

RSA 2000 cM-26 s19;2007 c16 s5;2013 c10 s21

#### **Specialized municipalities**

**20(1)** The Minister of Transportation has the direction, control and management of roads within a specialized municipality that has been formed in whole or in part from an improvement district.

(2) Despite subsection (1), the Minister of Transportation and the council of the specialized municipality may enter into an agreement providing that all or part of the direction, control and management of roads within the specialized municipality may be exercised by the specialized municipality.

(3) If there is an agreement under subsection (2), the Minister of Transportation may require that a specialized municipality pay for the cost of fulfilling the Minister's responsibilities with respect to roads within the specialized municipality, and the specialized municipality must pay the amount of the requisition as soon as practicable after the requisition is made.

RSA 2000 cM-26 s20;2007 c16 s5;2013 c10 s21

#### **Land abutting roads**

**21** If a municipality acquires land abutting a road intending that the land will become part of the road and, before the land is incorporated into the road, the municipality grants to an adjoining land owner a licence or permit to occupy the land, the land subject to the licence or permit is deemed to be part of the road.

1994 cM-26.1 s21;1996 c30 s2

#### **Road closure**

**22(1)** No road in a municipality that is subject to the direction, control and management of the municipality may be closed except by bylaw.

(2) A bylaw closing a road must be advertised.

(3) A bylaw closing a road made by the council of a municipality that is not a city has no effect unless it is approved by the Minister of Transportation before the bylaw receives second reading.

(4) Before passing a bylaw closing a road, a person who claims to be affected prejudicially by the bylaw or that person's agent must be given an opportunity to be heard by the council.

RSA 2000 cM-26 s22;2007 c16 s5;2013 c10 s21

#### **Compensation**

**23(1)** Any person who occupies, owns or has an interest in land that sustains damages through the closing of a road by bylaw must be compensated for the damages.

(2) If the municipality is not able to agree with the claimant on the amount of compensation, the compensation must be determined by the Land Compensation Board.

(3) This section does not apply in respect of the removal of

- (a) a roadway of a street or part of a street that provides a physical means of access to or from a controlled street, or
- (b) a direct physical means of access between a controlled street and land adjacent to the controlled street

under section 28 of the Highways Development and Protection Act.

RSA 2000 cM-26 s23;2004 cH-8.5 s69

#### **Closure of unnecessary road**

**24** Despite section 22, the council of a municipal district may by resolution, with the approval of the Minister of Transportation, close the whole or any part of a road described in a surveyed road plan that the council determines is no longer required for use by the travelling public owing to the existence of an alternate route.

RSA 2000 cM-26 s24;2007 c16 s5;2013 c10 s21

#### **Temporary road closure**

**25** Despite section 22, a council by resolution or a designated officer if authorized by resolution of the council may temporarily close the whole or a part of a road at any time that a construction or maintenance project on or adjacent to the road may create a hazard.

1994 cM-26.1 s25

#### **Temporary roads and rights of way**

**26(1)** In this section, "private land" means land that is not owned by the Crown in right of Alberta or of Canada or their agents.

(2) A council may by bylaw open a temporary road or a temporary right of way on private land.

(3) A temporary road or right of way established under this section may be kept open for not more than 2 years.

(4) The owner and occupant of land over which the temporary road or right of way passes are entitled to compensation from the municipality for the use of the temporary road or right of way and for loss or damage caused by the temporary road or right of way.

(5) If there is no agreement on compensation, the compensation must be decided by the Land Compensation Board.

(6) Section 22 does not apply to a temporary road or right of way established under this section.

1994 cM-26.1 s26

### Leases

**27(1)** This section applies to a portion of a road that is within a municipality and that is deemed to be closed because a Crown lease has been granted for the portion of the road.

(2) Subject to the rights of any lessee of any Crown lease referred to in subsection (1), the council of the municipality may by bylaw, reopen the whole or part of the portion of the road that was closed.

(3) If the whole or a part of a road is reopened, the council must send a copy of the bylaw to the Minister of Transportation.

RSA 2000 cM-26 s27;2007 c16 s5;2013 c10 s21

### Forestry roads

**27.1(1)** In this section and sections 27.2 to 27.5,

- (a) “agreement holder” means the person who has entered into an agreement with a municipality under section 27.2;
- (b) “former forestry road” means a road within a municipality that was designated as a forestry road under section 6 of the *Highways Development and Protection Act* or under section 14 of the *Public Highways Development Act*, but does not include a forestry road that has subsequently been designated as a provincial highway under the *Highways Development and Protection Act* or designated as a primary highway under the *Public Highways Development Act*.

(2) No person may use a former forestry road for commercial or industrial purposes unless the person is authorized to use the road for a commercial or industrial purpose under an agreement referred to in section 27.2.

(3) Nothing in this section prevents a person from using a former forestry road for a purpose other than a commercial or industrial purpose.

RSA 2000 cM-26 s27.1;2004 cH-8.5 s69

#### **Forestry road agreement**

**27.2** A municipality may enter into an agreement with a person with respect to a former forestry road that

- (a) authorizes the person to use the road for commercial and industrial purposes,
- (b) authorizes the person
  - (i) to allow others to use the road for commercial or industrial purposes, and
  - (ii) to charge those others a fee for that use,
- (c) requires the person to maintain the road according to specifications or standards referred to in the agreement and to be responsible for capital improvements to the road, and
- (d) deals with any other matter concerning the road that the parties consider appropriate.

1998 c24 s3

#### **Fees charged to other users**

**27.3(1)** An agreement holder may not charge a person who uses a former forestry road for a commercial or industrial purpose an amount that exceeds a reasonable fee based on the increased maintenance and administrative costs of the agreement holder as a result of the person's use of the road.

(2) If there is a dispute concerning the amount of the reasonable fee, the matter must be referred to the Minister, and the Minister or a person selected by the Minister must determine the amount of the fee.

(3) The decision of the Minister or the person selected by the Minister is final and binding.

1998 c24 s3

#### **Failure to maintain road**

**27.4(1)** If the agreement holder does not maintain the former forestry road in accordance with the agreement and the municipality incurs costs in maintaining the road, the costs incurred by the municipality are an amount owing by the agreement holder to the municipality.

(2) Repealed 1999 c11 s3.

1998 c24 s3;1999 c11 s3

#### Unauthorized commercial or industrial use

**27.5(1)** A person who contravenes section 27.1(2) is liable to pay to the agreement holder, for each day that the contravention occurs, 5% of the agreement holder's cost of maintaining and adding capital improvements to the former forestry road in the calendar year preceding the contravention.

(2) The agreement holder may collect the amount the agreement holder is owed under subsection (1) by civil action for debt.

1998 c24 s3

#### Existing agreements

**27.6** Where an order designating a road as a forestry road under section 6 of the *Highways Development and Protection Act* or section 14 of the *Public Highways Development Act* is repealed, any existing agreements made by the Minister of Transportation in respect of the road are deemed to be agreements made by the municipality in which the road exists.

RSA 2000 cM-26 s27.6;2004 cH-8.5 s69

### Division 3 Public Utilities General

#### Definitions

**28** In this Division,

- (a) "customer" has the meaning given to it in the *Electric Utilities Act*;
- (a.1) "easement" means an easement, interest or right held by a municipality for the purpose of locating the system or works of a municipal public utility;
- (b) "municipal public utility" means the system or works of a public utility operated by or on behalf of a municipality or a subsidiary of a municipality within the meaning of section 1(3) of the *Electric Utilities Act* other than under an agreement referred to in section 45;
- (c) "municipal utility service" means a utility service provided by a municipal public utility;
- (d) "non-municipal public utility" means the system or works of a public utility operated by or on behalf of a person under an agreement referred to in section 45;

- (d.1) “retailer” has the meaning given to it in the *Electric Utilities Act*;
- (e) “service connection” means the part of the system or works of a public utility that runs from the main lines of the public utility to a building or other place on a parcel of land for the purpose of providing the utility service to the parcel and includes those parts of the system or works described in section 29;
- (f) “utility service” means the thing that is provided by the system or works of a public utility.

RSA 2000 cM-26 s28;2003 cE-5.1 s165

### Interpretation

**28.1(1)** In this section,

- (a) “municipal tariff matter” means any matter relating to a transmission tariff, a distribution tariff or a regulated rate tariff of a municipality or of a subsidiary of a municipality that is subject to the jurisdiction of the Alberta Utilities Commission under the *Electric Utilities Act*;
- (b) “transmission tariff”, “distribution tariff”, “regulated rate tariff” and “subsidiary” have the same meaning as they have in the *Electric Utilities Act*.

**(2)** In the event of an inconsistency between the *Electric Utilities Act* and this Act in respect of a municipal tariff matter, the *Electric Utilities Act* prevails.

2003 cE-5.1 s165; 2007 cA-37.2 s82(17)

### Composition of system or works

**29** When the system or works of a public utility involve pipes, wires or other things that connect to a building, the system or works include

- (a) the pipes, wires or things
  - (i) running up to the building,
  - (ii) located on or within the exterior walls of the building, and
  - (iii) running from the exterior walls to couplings, stop-cocks, meters and other apparatus placed inside the building by the municipality or person providing the public utility,

and

- (b) those couplings, stop-cocks, meters and other apparatus.

1994 cM-26.1 s29

#### **Long-term supply agreements to public utilities**

**30(1)** If a council proposes to make an agreement to supply water, steam or fuel to a public utility for a period that, with rights of renewal, could exceed 5 years, the agreement must be approved by the Alberta Utilities Commission before it is made.

**(2)** If a council or a municipal public utility proposes to make an agreement regarding the supply of electric power for a period that, with rights of renewal, could exceed 5 years, the agreement must be approved by the Alberta Utilities Commission before it is made.

**(3)** The approval of the Alberta Utilities Commission is not required under subsection (2) if the proposed agreement relates to or arises from the supply of electric power under

- (a) a power purchase arrangement,
- (b) a generation asset held or sold by the Balancing Pool, or
- (c) a direct sales agreement.

**(4)** In subsection (3), “power purchase arrangement”, “generation asset”, “direct sales agreement” and “Balancing Pool” have the same meaning as they have in the *Electric Utilities Act*.

RSA 2000 cM-26 s30;2003 cE-5.1 s165; 2007 cA-37.2 s82(17)

#### **Regulation of gas supply obtained from direct sellers**

**31(1)** In this section,

- (a) “consumer” means a consumer of gas who takes delivery of the gas at its place of consumption by means of an urban gas system operated by a distributor;
- (b) “direct seller” means a person, other than a distributor, who sells gas to a consumer or to another person who purchases the gas as an agent of the consumer for the purposes of this section;
- (c) “distributor” means
  - (i) an urban municipality that operates an urban gas system, or
  - (ii) a rural gas co-operative association as defined in the *Gas Distribution Act*, that operates an urban gas system under an agreement referred to in section 45;

- (d) “urban gas system” means the system or works of a public utility for the distribution of gas to consumers within an urban municipality;
- (e) “urban municipality” means a city, town, village or summer village.

**(2)** The Lieutenant Governor in Council may make regulations

- (a) establishing classes of consumers for the purposes of this section;
- (b) respecting the conditions to which the rights of consumers under subsection (3) are subject;
- (c) governing, with respect to any matters provided for in the regulations, the rights and obligations of
  - (i) distributors,
  - (ii) direct sellers,
  - (iii) consumers, and
  - (iv) agents of consumers for purposes related to this section.

**(3)** Subject to the regulations, a consumer has the right to obtain a supply of gas from a direct seller for delivery to the consumer by means of an urban gas system operated by a distributor, subject to the rates, charges or tolls and on the terms and conditions established by the distributor with respect to the transportation of the gas.

**(4)** The Alberta Utilities Commission, on the application of a consumer or direct seller aggrieved by an unreasonable refusal of the distributor to provide service for the transportation of gas to the consumer by means of the distributor’s urban gas system or by any unreasonable term or condition under which the transportation service is or is sought to be provided by the distributor, may make an order

- (a) directing the distributor to provide the transportation service in accordance with the provisions of the order,
- (b) amending, replacing or voiding the term or condition, or
- (c) settling the term or condition.



(5) Section 45 does not apply to the sale of gas by a direct seller to a consumer or to another person who purchases the gas as an agent of the consumer for the purposes of this section.

RSA 2000 cM-26 s31; 2007 cA-37.2 s82(17)

#### **Other authorizations and approvals**

**32** Nothing in this Division exempts a municipality or other person operating a public utility from obtaining necessary approvals or other authorizations under an enactment or bylaw.

1994 cM-26.1 s32

### **Municipal Public Utilities**

#### **Prohibiting other public utilities**

**33** When a municipality provides a municipal utility service, the council may by bylaw prohibit any person other than the municipality from providing the same or a similar type of utility service in all or part of the municipality.

1994 cM-26.1 s33

#### **Exception**

**33.1** A bylaw under section 33 shall not prohibit a retailer from providing to customers in all or any part of the municipality the functions or services that retailers are permitted to provide under the *Electric Utilities Act* or the regulations under that Act.

2003 cE-5.1 s165

#### **Duty to supply utility service**

**34(1)** If the system or works of a municipal public utility that provide a municipal utility service are adjacent to a parcel of land, the municipality must, when it is able to do so and subject to any terms, costs or charges established by council, provide the municipal utility service to the parcel on the request of the owner of the parcel.

**(2)** If the system or works of a municipal public utility that provide a municipal utility service are adjacent to a parcel of land, the municipality may, when it is able to do so and subject to any terms, costs or charges established by council, provide the municipal utility service to the parcel on the request of the occupant of the parcel who is not the owner.

1994 cM-26.1 s34

#### **Parcels adjacent to roads and easements**

**35(1)** This section applies when the main lines of the system or works of a municipal public utility are located above, on or underneath a road or easement and the municipality provides the municipal utility service to a parcel of land adjacent to the road or easement.

(2) The municipality is responsible for the construction, maintenance and repair of the portion of the service connection from the main lines of the system or works to the boundary of the road or easement.

(3) Despite subsection (2), the council may as a term of supplying the municipal utility service to the parcel of land make the owner responsible for the costs of the construction, maintenance and repair of the portion of the service connection from the main lines of the system or works to the boundary of the road or easement.

(4) If the owner is responsible for the costs of the construction, maintenance or repair referred to in subsection (3), those costs are an amount owing to the municipality by the owner.

1994 cM-26.1 s35

#### **Right of entry - main lines**

**36(1)** This section applies to

- (a) the main lines of the system or works of a municipal public utility located above, on or underneath a road or easement, and
- (b) the portion of a service connection referred to in section 35(2).

(2) A municipality may enter on any land for the purpose of constructing, repairing or maintaining the system or works described in subsection (1).

(3) After the municipality has constructed, repaired or maintained the system or works, the municipality must, at its expense, restore any land that has been entered on under subsection (2) as soon as practicable.

(4) If the municipality does not restore the land as soon as practicable and the owner of the land restores it, the municipality is liable to the owner for the restoration costs.

1994 cM-26.1 s36

#### **Service connections - owner**

**37(1)** The owner of a parcel of land is responsible for the construction, maintenance and repair of a service connection of a municipal public utility located above, on or underneath the parcel.

(2) If the municipality is not satisfied with the construction, maintenance or repair of the service connection, the municipality may require the owner of the parcel of land to do something in accordance with its instructions with respect to the construction, maintenance or repair of the system or works by a specified time.

(3) If the thing has not been done to the satisfaction of the municipality within the specified time or in an emergency, the municipality may enter on any land or building to construct, maintain or repair the service connection.

1994 cM-26.1 s37

#### **Service connections - municipality**

**38(1)** Despite section 37, the council may as a term of providing a municipal utility service to a parcel of land give the municipality the authority to construct, maintain and repair a service connection located above, on or underneath the parcel.

(2) A municipality that has the authority to construct, maintain or repair a service connection under subsection (1) may enter on any land or building for that purpose.

1994 cM-26.1 s38

#### **Restoration and costs**

**39(1)** After the municipality has constructed, maintained or repaired the service connection located above, on or underneath a parcel of land under section 37 or 38, the municipality must restore any land entered on as soon as practicable.

(2) The municipality's costs relating to the construction, maintenance or repair under section 37 or 38 and restoration costs under this section are an amount owing to the municipality by the owner of the parcel.

1994 cM-26.1 s39

#### **Buildings**

**40(1)** When a municipal utility service is provided to a building that has more than one apartment, office or other unit, the system or works of the municipal public utility may be installed over the different apartments, offices or other units.

(2) The system or works must be attached to the outside of the building unless consent is given to install them inside.

1994 cM-26.1 s40

#### **Discontinue providing public utility**

**41** In accordance with its bylaws, a municipality may, for any lawful reason,

- (a) discontinue providing a municipal utility service after giving reasonable notice of its intention to do so, and
- (b) remove the system or works of the municipal public utility used to provide the utility service.

1994 cM-26.1 s41

**Liability for public utilities charges**

**42(1)** The charges for a municipal utility service provided to a parcel of land are an amount owing to the municipality by the owner of the parcel.

**(2)** If the municipality agrees to provide a municipal utility service to a parcel of land on the request of an occupant of the parcel who is not the owner, the charges for the municipal utility service provided to the parcel are an amount owing to the municipality by the occupant and not the owner.

1994 cM-26.1 s42

**Appeal**

**43(1)** A person who uses, receives or pays for a municipal utility service may appeal a service charge, rate or toll made in respect of it to the Alberta Utilities Commission, but may not challenge the public utility rate structure itself.

**(2)** If the Alberta Utilities Commission is satisfied that the person's service charge, rate or toll

- (a) does not conform to the public utility rate structure established by the municipality,
- (b) has been improperly imposed, or
- (c) is discriminatory,

the Commission may order the charge, rate or toll to be wholly or partly varied, adjusted or disallowed.

RSA 2000 cM-26 s43; 2007 cA-37.2 s82(17)

**Dispute with other municipalities**

**44(1)** If

- (a) a municipality is supplying a utility service to a person outside the municipality, and
- (b) there is a dispute between the municipality supplying the utility service and any other municipality in connection with the rates, tolls or charges,

the dispute may be submitted to the Alberta Utilities Commission.

**(2)** The Commission may make an order on any terms and conditions that it considers proper.

(3) This section applies whether or not a public utility is subject to the control and orders of the Alberta Utilities Commission pursuant to section 111 of the *Public Utilities Act* or section 4 of the *Gas Utilities Act*.

RSA 2000 cM-26 s44; 2007 cA-37.2 s82(17)

### Non-municipal Public Utilities

#### Granting rights to provide utility service

**45(1)** A council may, by agreement, grant a right, exclusive or otherwise, to a person to provide a utility service in all or part of the municipality, for not more than 20 years.

(2) The agreement may grant a right, exclusive or otherwise, to use the municipality's property, including property under the direction, control and management of the municipality, for the construction, operation and extension of a public utility in the municipality for not more than 20 years.

(3) Before the agreement is made, amended or renewed, the agreement, amendment or renewal must

(a) be advertised, and

(b) be approved by the Alberta Utilities Commission.

(4) Subsection (3)(b) does not apply to an agreement to provide a utility service between a council and a regional services commission.

(5) Subsection (3) does not apply to an agreement to provide a utility service between a council and a subsidiary of the municipality within the meaning of section 1(3) of the *Electric Utilities Act*.

RSA 2000 cM-26 s45; 2003 cE-5.1 s165; 2007 cA-37.2 s82(17)

#### Exception

**45.1** An agreement made under section 45 shall not grant an exclusive right to provide to customers in all or any part of the municipality the functions or services that retailers are permitted to provide under the *Electric Utilities Act* or the regulations under that Act.

2003 cE-5.1 s165

#### Prohibiting other non-municipal public utilities

**46** When a person provides a utility service in a municipality under an agreement referred to in section 45, the council may by bylaw prohibit any other person from providing the same or a similar utility service in all or part of the municipality.

1994 cM-26.1 s46

**Exception**

**46.1** A bylaw under section 46 shall not prohibit a retailer from providing to customers in all or any part of the municipality the functions or services that retailers are permitted to provide under the *Electric Utilities Act* or the regulations under that Act.

2003 cE-5.1 s165

**Renewals**

**47(1)** An agreement referred to in section 45 that is not renewed continues in effect until either party, with the approval of the Alberta Utilities Commission, terminates it on 6 months' notice.

**(2)** If notice to terminate has been given under subsection (1), the municipality has the right to purchase the rights, systems and works of the public utility.

**(3)** If the municipality wishes to purchase the rights, systems and works and no agreement on the purchase can be reached, either party may refer the matter to the Alberta Utilities Commission.

**(4)** After the matter is referred to the Alberta Utilities Commission, the Commission must by order fix the terms and price of the purchase and the order is binding on the parties.

RSA 2000 cM-26 s47; 2007 cA-37.2 s82(17)

**Utility Services Provided by Municipal Subsidiaries****EPCOR Water Services Inc.**

**47.1(1)** Sections 43 to 47 apply in respect of a utility service provided by EPCOR Water Services Inc.

**(2)** Part 2 of the *Public Utilities Act* does not apply in respect of a public utility that

- (a) is owned or operated by EPCOR Water Services Inc., and
- (b) provides a utility service within the boundaries of the City of Edmonton.

**(3)** If there is a dispute between a regional services commission and EPCOR Water Services Inc. with respect to

- (a) rates, tolls or charges for a service that is a public utility,
- (b) compensation for the acquisition by the commission of facilities used to provide a service that is a public utility, or
- (c) the commission's use of any road, square, bridge, subway or watercourse to provide a service that is a public utility,

any party involved in the dispute may submit it to the Alberta Utilities Commission, and the Alberta Utilities Commission may issue an order on any terms and conditions that the Alberta Utilities Commission considers appropriate.

RSA 2000 cM-26 s47.1; 2007 cA-37.2 s82(17)

**Division 4** Repealed 2008 cE-6.6 s55.

## **Division 5 Business Revitalization Zones**

### **Purpose**

**50** A council may by bylaw establish a business revitalization zone for one or more of the following purposes:

- (a) improving, beautifying and maintaining property in the zone;
- (b) developing, improving and maintaining public parking;
- (c) promoting the zone as a business or shopping area.

1994 cM-26.1 s50

### **Board**

**51(1)** A business revitalization zone is governed by a board consisting of members appointed by council under the business revitalization zone bylaw.

**(2)** The board is a corporation.

1994 cM-26.1 s51

### **Civil liability of board members**

**52(1)** In this section, “approved budget” means a budget of the board of a business revitalization zone that has been approved by council.

**(2)** A member of a board of a business revitalization zone that makes an expenditure that is not included in an approved budget is liable to the municipality for the expenditure.

**(3)** If more than one member is liable to the municipality under this section in respect of a particular expenditure, the members are jointly and severally liable to the municipality for the expenditure.

**(4)** The liability may be enforced by action by

- (a) the municipality, or
- (b) a person who is liable to pay the business revitalization zone tax imposed in the business revitalization zone.

1994 cM-26.1 s52;1995 c24 s7

**Regulations**

**53** The Minister may make regulations

- (a) respecting the establishment of a business revitalization zone;
- (b) setting out what must be included in a business revitalization zone bylaw;
- (c) respecting the appointment, term and renewal of members of the board of a business revitalization zone;
- (d) respecting the powers and duties of the board and the board's annual budget;
- (e) respecting the disestablishment of a zone and the dissolution of a board;
- (f) that operate despite Part 8, authorizing a municipality to lend money to a board and to borrow money on behalf of a board;
- (g) establishing restrictions on the municipality providing money to the board.

1994 cM-26.1 s53

## **Division 6 Miscellaneous Powers**

**Providing services in other areas**

**54** A municipality may provide any service or thing that it provides in all or part of the municipality

- (a) in another municipal authority with the agreement of the other municipal authority, and
- (b) in a part of a province or territory adjoining Alberta with the agreement of the authority from that province or territory whose jurisdiction includes the provision of the service or thing in that part of the province or territory.

1994 cM-26.1 s54;1999 c11 s4

**Sharing taxes and grants**

**55(1)** A municipality may enter into an agreement with

- (a) another municipality, or
- (b) a collecting board as defined in section 163 of the *School Act*,

to share grants paid under section 366 or taxes.



(2) The agreement must include a means to settle disputes arising from the agreement.

1994 cM-26.1 s55

#### **Civic holidays**

**56(1)** A council may declare up to 2 days in a year as civic holidays.

(2) The minimum length of a civic holiday is a half day.

1994 cM-26.1 s56

#### **Census**

**57** A council may conduct a census.

1994 cM-26.1 s57

#### **Road names**

**58(1)** A municipality may name roads or areas within its boundaries and may assign a number or other means of identification to buildings or parcels of land.

(2) A municipality may require an owner or occupant of a building or a parcel of land to display the identification in a certain manner.

1994 cM-26.1 s58

#### **Hamlets**

**59(1)** The council of a municipal district or specialized municipality may designate an unincorporated community described in subsection (2) that is within its boundaries to be a hamlet.

(2) An unincorporated community may be designated a hamlet if the community

- (a) consists of 5 or more buildings used as dwellings, a majority of which are on parcels of land smaller than 1850 square metres,
- (b) has a generally accepted boundary and name, and
- (c) contains parcels of land that are used for non-residential purposes.

(3) The designation of a hamlet must specify the hamlet's name and boundaries.

1994 cM-26.1 s59;1995 c24 s8

#### **Water bodies**

**60(1)** Subject to any other enactment, a municipality has the direction, control and management of the rivers, streams, watercourses, lakes and other natural bodies of water within the municipality, including the air space above and the ground below.

(2) Nothing in this section gives a municipality the direction, control and management of mines and minerals.

1994 cM-26.1 s60

#### **Granting rights over property**

**61(1)** A municipality may grant rights, exclusive or otherwise, with respect to its property, including property under the direction, control and management of the municipality.

(2) A municipality may charge fees, tolls and charges for the use of its property, including property under the direction, control and management of the municipality.

1994 cM-26.1 s61

#### **Acquiring land for roads**

**62(1)** In this section, “owner” includes

- (a) in the case of land that is being acquired under an agreement for sale, the owner of the fee simple estate in the land and the purchaser under the agreement for sale who has registered the interest against the certificate of title for the land;
- (b) in the case of land that is subject to a lease for which a certificate of title has been issued, the owner of the fee simple estate in the land and the lessee under that lease.

(2) When a municipality makes an agreement with the owner of land to acquire the land for the purpose of a road, culvert, ditch or drain, title to the land is vested in the city, or in the case of any other municipality, the Crown in right of Alberta, by filing with the Registrar of Land Titles

- (a) plans of survey showing the land to be acquired, and
- (b) a certificate of a designated officer stating that
  - (i) an agreement has been reached with the owner of the land to be acquired and the price to be paid,
  - (ii) all persons registered on certificates of title that have an interest in land that is within 40 metres of the boundary of the land to be acquired as shown on the plans of survey have been notified by registered mail, and
  - (iii) the person signing the certificate is a designated officer.

(3) When the title to land vests under subsection (2), it is not necessary to register a transfer for that land.

(4) A municipality is not entitled to mines and minerals in any land vested in it pursuant to this section and the title to any mines or minerals is not affected by the filing of any plan of survey pursuant to this section.

1994 cM-26.1 s62

## **Division 7**

### **Revision and Consolidation of Bylaws**

#### **Revision authorized**

**63(1)** A council may by bylaw authorize the revision of all or any of the bylaws of the municipality.

(2) The bylaw may authorize the following:

- (a) consolidating a bylaw by incorporating all amendments to it into one bylaw;
- (b) omitting and providing for the repeal of a bylaw or a provision of a bylaw that is inoperative, obsolete, expired, spent or otherwise ineffective;
- (c) omitting, without providing for its repeal, a bylaw or a provision of a bylaw that is of a transitional nature or that refers only to a particular place, person or thing or that has no general application throughout the municipality;
- (d) combining 2 or more bylaws into one, dividing a bylaw into 2 or more bylaws, moving provisions from one bylaw to another and creating a bylaw from provisions of another or 2 or more others;
- (e) altering the citation and title of a bylaw and the numbering and arrangement of its provisions, and adding, changing or omitting a note, heading, title, marginal note, diagram or example to a bylaw;
- (f) omitting the preamble and long title of a bylaw;
- (g) omitting forms or other material contained in a bylaw that can more conveniently be contained in a resolution, and adding authority for the forms or other material to be prescribed by resolution;
- (h) correcting clerical, grammatical and typographical errors;
- (i) making changes, without changing the substance of the bylaw, to bring out more clearly what is considered to be the meaning of a bylaw or to improve the expression of the law.

1994 cM-26.1 s63

**Bylaw adopting revised bylaws**

**64(1)** Revised bylaws have no effect unless a bylaw adopting them is passed.

(2) The bylaw adopting the revised bylaw may not be passed unless the chief administrative officer certifies that the proposed revised bylaws have been revised in accordance with the bylaw authorizing the revision.

(3) An amendment to the proposed revised bylaws may be made only if the change under the amendment is in accordance with the bylaw authorizing the revision.

(4) The bylaw adopting the revised bylaws must specify the date or dates that the revised bylaws are to come into force and the date or dates that the bylaws being repealed are repealed.

1994 cM-26.1 s64

**Requirements relating to substituted bylaws**

**65** Revised bylaws that are in effect are deemed to have been passed as if all the requirements respecting the passing and approval of the bylaws for which the revised bylaws are substituted have been complied with.

1994 cM-26.1 s65

**Effects of revised bylaws**

**66(1)** The provisions of the revised bylaws substituted for the previous bylaws, when they have the same effect, operate retrospectively as well as prospectively and are deemed to come into force on the days on which the corresponding previous bylaws came into force.

(2) If the provisions of the revised bylaws do not have the same effect,

- (a) the provisions of the revised bylaws prevail with respect to all transactions, matters and things occurring on or after the day the revised bylaws come into force, and
- (b) the provisions of the previous bylaws prevail with respect to all earlier transactions, matters and things.

1994 cM-26.1 s66

**References to repealed bylaws**

**67** A reference in a bylaw, enactment or document to a bylaw that has been repealed by the revised bylaws is, in respect of any subsequent transaction, matter or thing occurring after the revised bylaws come into force, to be considered to be a reference to the bylaw in the revised bylaws that has been substituted for the repealed bylaw.

1994 cM-26.1 s67

**Mistakes made during revision**

**68(1)** If a mistake is made during the revision of a bylaw and the bylaw adopting the revised bylaw has been passed, the mistake may be corrected by bylaw.

**(2)** The bylaw correcting the mistake is deemed to have been made as if all the requirements respecting the passing and approval of the bylaw for which the revised bylaw was substituted have been complied with.

1994 cM-26.1 s68

**Consolidation of bylaws**

**69(1)** A council may by bylaw authorize a designated officer to consolidate one or more of the bylaws of the municipality.

**(2)** In consolidating a bylaw, the designated officer must

- (a) incorporate all amendments to it into one bylaw, and
- (b) omit any provision that has been repealed or that has expired.

**(3)** A printed document purporting

- (a) to be a copy of a bylaw consolidated under this section, and
- (b) to be printed under the authority of a designated officer,

is proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it, and of the fact of the passage of the original and all amending bylaws.

1994 cM-26.1 s69

## **Division 8 Limits on Municipal Powers**

**Disposal of land**

**70(1)** If a municipality proposes to transfer or grant an estate or interest in

- (a) land for less than its market value, or
- (b) a public park or recreation or exhibition grounds,

the proposal must be advertised.

**(2)** The proposal does not have to be advertised if the estate or interest is

- (a) to be used for the purposes of supplying a public utility,

- (b) transferred or granted under Division 8 of Part 10 before the period of redemption under that Division, or
- (c) to be used by a non-profit organization as defined in section 241(f).

1994 cM-26.1 s70;1995 c24 s9

#### **Mines and minerals**

**71** No municipality may acquire an estate or interest in mines or minerals without the approval of the Lieutenant Governor in Council.

1994 cM-26.1 s71;1996 c30 s3

#### **Acquisition of land outside municipal boundaries**

**72(1)** A municipality may acquire an estate or interest in land outside its boundaries only if

- (a) the council of the municipal authority in whose boundaries the land is located consents in writing to the acquisition or, in the case of a municipal authority that is an improvement district or special area, the Minister consents in writing to the acquisition,
- (a.1) in the case of land located in a province or territory adjoining Alberta, the local government within whose boundaries the land is located consents in writing to the acquisition, and
- (b) after the written consent is given, the council that wishes to acquire the estate or interest in the land authorizes the acquisition.

**(2)** This section does not apply when a municipality acquires

- (a) an option on land outside its boundaries, but it does apply when the municipality exercises the option, or
- (b) an estate or interest in mines and minerals.

1994 cM-26.1 s72;1996 c30 s4;1999 c11 s5

#### **Control of profit corporations**

**73(1)** In this section, “corporation” means a corporation that operates for the purpose of making a profit.

**(2)** No municipality may, by itself or with other municipalities, control a corporation except in accordance with the regulations.

**(3)** The Minister may make regulations

- (a) respecting information that must be provided to the Minister before a municipality or group of municipalities controls a corporation;
  - (b) providing that certain corporations may not be controlled by a municipality or group of municipalities unless the Minister's approval is obtained;
  - (c) respecting terms and conditions that apply when a municipality or group of municipalities controls a corporation.
- (4) The regulations may apply to one corporation or one approval or may be general.

1994 cM-26.1 s73

**Firearms**

**74** A bylaw of a municipal district prohibiting in all or a part of the municipal district the shooting or use of a firearm or other device that propels a projectile does not come into force until the bylaw has been approved by the Minister responsible for the *Wildlife Act*.

1994 cM-26.1 s74;1995 c24 s10

**Forest and Prairie Protection Act**

**75(1)** In this section, "forest protection area" means a forest protection area designated under the *Forest and Prairie Protection Act*.

(2) The council of a municipal district may not pass a bylaw respecting fires that applies to the part of the municipal district in a forest protection area.

(3) Despite subsection (2), the council may pass a bylaw respecting fires, other than forest or running fires, that applies to the part of a hamlet that is within a forest protection area.

(4) Sections 4(2) and (3), 7 and 19(2) of the *Forest and Prairie Protection Act* do not apply to the council of a municipal district with respect to the part of the municipal district that is within a forest protection area.

1994 cM-26.1 s75

## **Part 4 Formation, Fundamental Changes and Dissolution**

### **Division 1 General Criteria**

#### **Principles, standards and criteria**

**76(1)** The Minister may establish and publish principles, standards and criteria that are to be taken into account in considering the formation, change of status or dissolution of municipalities and the amalgamation of or annexation of land from municipal authorities.

**(2)** The *Regulations Act* does not apply to the principles, standards and criteria.

1994 cM-26.1 s76

### **Division 2 Formation**

#### **Types of municipality that may be formed**

**77** The following types of municipality may be formed under this Part:

- (a) municipal district;
- (b) repealed 1995 c24 s11;
- (c) village;
- (d) town;
- (e) city;
- (f) specialized municipality.

1994 cM-26.1 s77;1995 c24 s11

#### **Municipal district**

**78** A municipal district may be formed for an area in which

- (a) a majority of the buildings used as dwellings are on parcels of land with an area of at least 1850 square metres, and
- (b) there is a population of 1000 or more.

1994 cM-26.1 s78

**79** Repealed 1995 c24 s12.

#### **Village**

**80** A village may be formed for an area in which



- (a) a majority of the buildings are on parcels of land smaller than 1850 square metres, and
- (b) there is a population of 300 or more.

1994 cM-26.1 s80

**Town****81** A town may be formed for an area in which

- (a) a majority of the buildings are on parcels of land smaller than 1850 square metres, and
- (b) there is a population of 1000 or more.

1994 cM-26.1 s81

**City****82** A city may be formed for an area in which

- (a) a majority of the buildings are on parcels of land smaller than 1850 square metres, and
- (b) there is a population of 10 000 or more.

1994 cM-26.1 s82

**Specialized municipality****83** A specialized municipality may be formed for an area

- (a) in which the Minister is satisfied that a type of municipality referred to in section 77(a), (b), (c), (d) or (e) does not meet the needs of the residents of the proposed municipality,
- (b) to provide for a form of local government that, in the opinion of the Minister, will provide for the orderly development of the municipality to a type of municipality referred to in section 77(a), (b), (c), (d) or (e), or to another form of specialized municipality, or
- (c) in which the Minister is satisfied for any other reason that it is appropriate in the circumstances to form a specialized municipality.

1994 cM-26.1 s83

**Modification of requirements****84** The Minister may by order, in a particular case, make minor modifications to the requirements in sections 78 to 83 if the Minister considers there is justifiable reason for doing so.

1994 cM-26.1 s84

**Initiating formation**

**85(1)** A municipality may be formed on the Minister's initiative or if

- (a) the Minister receives a request to form the municipality from a council of a municipality or an improvement district, or
- (b) the Minister receives a sufficient petition requesting the formation of the municipality from electors within the boundaries of the proposed municipality numbering at least 30% of the population within the boundaries of the proposed municipality.

**(2)** A request or petition referred to in subsection (1) must specify the boundaries of the proposed municipality.

1994 cM-26.1 s85;1995 c24 s13

**Factors to be considered**

**86** Before a municipality is formed, the Minister must consider

- (a) the principles, standards and criteria on formation established under section 76,
- (b) the viability, including the financial viability, of
  - (i) the proposed municipality operating as a separate entity, and
  - (ii) any remaining municipality continuing to operate as a separate entity,

and

- (c) any agreements on common boundaries.

1994 cM-26.1 s86

**Public input**

**87(1)** Before a municipality is formed, the Minister

- (a) must invite comments on the proposed municipality from all local authorities that the Minister considers would be affected by the formation of the proposed municipality and from any other person the Minister considers necessary,
- (b) must invite comments on the proposed municipality from the public,
- (c) may conduct one or more meetings of the public to discuss the probable effects of the formation, and

- (d) may hold a vote of those people who would be electors of the proposed municipality.

**(2)** If the Minister holds a vote, the vote must be conducted in accordance with the *Local Authorities Election Act* as modified by directions given by the Minister.

1994 cM-26.1 s87

#### **Formation order**

**88** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order form a municipality.

1994 cM-26.1 s88

#### **Contents of order**

**89(1)** A formation order must

- (a) describe the boundaries of the municipality formed by the order,
- (b) give the municipality the status of municipal district, village, town, city or specialized municipality, and
- (c) give the municipality an official name.

**(2)** If a municipal district is formed, the order

- (a) must state the number of councillors that is to comprise its council,
- (b) must establish wards for it and describe their boundaries,
- (c) may specify or describe by reference, the provisions of this or other enactments that do not apply to the municipal district, or that apply with or without modification, and
- (d) may specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments.

**(3)** If a specialized municipality is formed, the order must state the number of councillors that is to comprise its council and apply either section 150(1) or (2) to the municipality and may

- (a) establish wards for it and describe their boundaries;
- (b) specify or describe by reference, the provisions of this or other enactments that do not apply to the specialized municipality, or that apply with or without modification;
- (c) specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments;

- (d) prescribe matters or conditions that govern the functions, powers and duties of the specialized municipality;
- (e) if a specialized municipality is formed all or partly from an improvement district, provide that Part 15 continues to apply to the specialized municipality as if it were an improvement district.

**(4)** If the order provides that Part 15 continues to apply to a specialized municipality under subsection (3)(e), the Minister may at any time in respect of the specialized municipality

- (a) exercise any of the powers that the Minister has in respect of an improvement district under Part 15 or any other enactment, including the power to delegate;
- (b) limit the power, authority or jurisdiction of the specialized municipality;
- (c) prescribe how or the conditions under which the specialized municipality may exercise any power or authority;
- (d) require the specialized municipality to exercise or perform a power, right or duty of a municipality;
- (e) authorize the council to pass some or all of the bylaws that the council of a municipal district may pass, subject to any conditions the Minister imposes.

**(5)** If a municipality is formed from an improvement district, the order may dissolve the improvement district.

1994 cM-26.1 s89;1995 c24 s14

#### **Summer village**

**89.1** The fact that a summer village may not be formed under this Act does not affect any existing summer village, and this Act continues to apply to summer villages.

1995 c24 s15

#### **Official administrator**

**90** When a municipality is formed and there is no council, the Minister may appoint an official administrator who has all the powers and duties of a council of the municipality until the first council of the municipality is sworn into office.

1994 cM-26.1 s90

### Division 3 Change of Status

#### Meaning of change of status

**91** A reference to changing the status of a municipality in this Part means changing a municipal district, summer village, village, town, city or specialized municipality to another type of municipality within that group.

1994 cM-26.1 s91

#### Summer village

**91.1** The status of a municipality may not be changed to the status of a summer village.

1995 c24 s16

#### Application of formation rules

**92** The requirements in sections 78 to 83 respecting the formation of municipalities apply to changing the status of municipalities.

1994 cM-26.1 s92

#### Initiation of change of status

**93** The status of a municipality may be changed if

- (a) the Minister receives a request from the municipality's council,
- (b) the Minister receives a sufficient petition from the majority of the electors in the municipality requesting the change in status, or
- (c) the Minister is satisfied that the municipality no longer meets the requirements in sections 78 to 82 or, in the case of a specialized municipality, that the reasons for its original formation as a specialized municipality no longer exist.

1994 cM-26.1 s93

#### Public input

**94** Before the status of a municipality is changed, the Minister

- (a) must notify the council of the municipality of the proposed change,
- (b) may invite comments on the proposed change of status from all local authorities that the Minister considers would be affected by the change and from any other person the Minister considers necessary,
- (c) may invite comments on the proposed change of status from the public, and

- (d) may conduct one or more meetings of the public to discuss the probable effects of the change of status.

1994 cM-26.1 s94

#### **Consideration of principles**

**95** Before the status of a municipality is changed, the Minister must consider the principles, standards and criteria on change of status established under section 76.

1994 cM-26.1 s95

#### **Change of status order**

**96** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order change the status of a municipality.

1994 cM-26.1 s96

#### **Contents of order**

**97(1)** An order changing the status of a municipality to a municipal district must include the provisions referred to in section 89(2).

**(2)** An order changing the status of a municipality to a specialized municipality must state the number of councillors that is to comprise its council and apply either section 150(1) or (2) to the municipality and may deal with any of the other matters referred to in section 89(3) and (4).

1994 cM-26.1 s97

**97.1** Repealed 1999 c26 s14.

#### **Effect of change of status**

**97.2(1)** When the status of a municipality is changed,

- (a) each councillor of the old municipality continues as a councillor of the new municipality until a successor is sworn into office;
- (b) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality otherwise directs;
- (c) all bylaws and resolutions of the old municipality that the new municipality has the authority to pass are continued as the bylaws and resolutions of the new municipality;
- (d) all taxes due to the old municipality are deemed to be arrears of taxes due to the new municipality and may be collected and dealt with by the new municipality as if it had imposed the taxes;

- (e) all rights of action and actions by or against the old municipality may be continued or maintained by or against the new municipality;
- (f) all property vested in the old municipality becomes vested in the new municipality and may be dealt with by the new municipality in its own name subject to any trusts or other conditions applicable to the property;
- (g) all other assets, liabilities, rights, duties, functions and obligations of the old municipality become vested in the new municipality, and the new municipality may deal with them in its own name.

(2) Subsection (1) is subject to the order changing the status of the municipality.

1995 c24 s17

#### **Division 4 Change of Name**

##### **Change of name order**

**98** The Lieutenant Governor in Council, on the request of a municipality's council and on the recommendation of the Minister, may change the name of the municipality.

1994 cM-26.1 s98

##### **Effect of change of name**

**99(1)** The change of a municipality's name does not affect any obligation, right, action or property of the municipality.

**(2)** The use of the old name of the municipality in any proceedings, agreements, notices or documents after the name has been changed does not affect the validity of those proceedings, agreements, notices or documents.

1994 cM-26.1 s99

#### **Division 5 Amalgamation**

##### **Application**

**100** This Division does not apply to the amalgamation of

- (a) an improvement district with another improvement district, or
- (b) a special area with another special area.

1994 cM-26.1 s100

**Restriction on amalgamation**

**101** No order amalgamating municipal authorities may be made that would result in an area of land that is

- (a) not included in any municipal authority, or
- (b) part of the amalgamated municipal authority, but is not contiguous with other land in the amalgamated municipal authority.

1994 cM-26.1 s101

**Initiation of amalgamation proceedings**

**102** The procedure for the amalgamation of 2 or more municipal authorities may be initiated by a municipal authority or by the Minister under section 107.

1994 cM-26.1 s102

**Initiation by municipal authority**

**103(1)** A municipal authority initiates an amalgamation by giving written notice of the proposed amalgamation to

- (a) the one or more municipal authorities with which it proposes to amalgamate,
- (b) the Minister, and
- (c) any local authority that the initiating municipal authority considers would be affected by the proposed amalgamation.

**(2)** If an amalgamation proposed by an initiating municipal authority would result in an area of land that is within the perimeter of the boundary of the amalgamated municipal authority, but is not part of the amalgamated municipal authority, the initiating municipal authority must give notice of its intention to annex that land when it gives notice of the proposed amalgamation.

**(3)** Subsection (2) does not apply if the area of land within the perimeter of the boundary of the proposed amalgamated municipal authority is the area of an existing municipal authority.

**(4)** The notice for an amalgamation must

- (a) include the names of all the municipal authorities that are to be amalgamated and the reasons for the proposed amalgamation, and
- (b) include proposals for consulting with the local authorities that the initiating municipal authority considers would be affected and the public about the proposed amalgamation.

1994 cM-26.1 s103



**Direct negotiations**

**104(1)** The municipal authorities with which the initiating municipal authority proposes to amalgamate must, on receipt of the notice under section 103, meet with the initiating municipal authority to discuss the proposals included in the notice and negotiate the proposals in good faith.

**(2)** The initiating municipal authority must keep the Minister informed of the progress of the negotiations.

1994 cM-26.1 s104

**Report on negotiations**

**105(1)** On conclusion of the negotiations, the initiating municipal authority must prepare a report that describes the results of the negotiations and that includes

- (a) a list of the matters agreed on and those on which there is no agreement between the municipal authorities,
- (b) a description of the public consultation processes involved in the negotiations, and
- (c) a summary of the views expressed during the public consultation processes.

**(2)** The report must be signed by the initiating municipal authority and by the municipal authorities with which it proposes to amalgamate that are prepared to sign and must include a certificate by the initiating municipal authority stating that the report accurately reflects the results of the negotiations.

**(3)** A municipal authority that does not sign the report may include in the report its reasons for not signing.

1994 cM-26.1 s105

**Disposition of report**

**106(1)** On completion of the report on the direct negotiations, the initiating municipal authority must submit the report to the Minister and send a copy of it to the municipal authorities with which it proposes to amalgamate and any other local authority the initiating municipal authority considers would be affected.

**(2)** If the initiating municipal authority indicates in the report that it wishes to proceed with the amalgamation, the report becomes the initiating municipal authority's application for the amalgamation.

1994 cM-26.1 s106

**Initiation by Minister**

**107** The Minister may initiate an amalgamation of 2 or more municipal authorities if the Minister believes that the operation of the municipal authority to be formed by the amalgamation will be

more effective or efficient than the municipal authorities to be amalgamated.

1994 cM-26.1 s107

#### **Notice by Minister**

**108** When the Minister initiates an amalgamation, the Minister

- (a) must give written notice of it to the municipal authorities proposed to be amalgamated and any local authority that the Minister considers would be affected by the proposed amalgamation,
- (b) may invite comments on the proposed amalgamation from all local authorities that the Minister considers would be affected by the amalgamation and from any other person the Minister considers necessary,
- (c) may invite comments on the proposed amalgamation from the public, and
- (d) may conduct one or more meetings of the public to discuss the probable effects of the proposed amalgamation.

1994 cM-26.1 s108

#### **Consideration of principles**

**109** Before municipal authorities are amalgamated, the Minister must consider the principles, standards and criteria on amalgamation established under section 76.

1994 cM-26.1 s109

#### **Amalgamation order**

**110** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order amalgamate municipal authorities to form a new municipality.

1994 cM-26.1 s110

#### **Contents of order**

**111** An order to amalgamate municipal authorities may

- (a) dissolve one or more of the councils of the municipal authorities that are amalgamated,
- (b) provide for an interim council,
- (c) require a municipal authority to pay compensation to another municipal authority set out in the order or by means determined in the order, including arbitration under the *Arbitration Act*, and

- (d) deal with any of the matters referred to in section 89.

1994 cM-26.1 s111

#### **Official administrator**

**112** When a municipality is formed by amalgamation and there is no council, the Minister may appoint an official administrator who has all the powers and duties of a council of the municipality until the first council of the municipality is sworn into office.

1994 cM-26.1 s112

## **Division 6 Annexation**

#### **Mediation**

**112.1** In this Division, “mediation” in respect of an annexation means a process involving a neutral person as mediator who assists the initiating municipal authority and the one or more municipal authorities from which the land is to be annexed, and any other person brought in with the agreement of those municipal authorities, to reach their own mutually acceptable settlement of the matter by structuring negotiations, facilitating communication and identifying the issues and interests of the participants.

1999 c11 s6

#### **Application**

**113** This Division does not apply to the annexation of land

- (a) from an improvement district to another improvement district, or
- (b) from a special area to another special area.

1994 cM-26.1 s113

#### **Restriction on annexation**

**114** No order that annexes land to a municipal authority may be made if the land to be annexed is not contiguous with the boundaries of the municipal authority.

1994 cM-26.1 s114

#### **Annexations of same land**

**115(1)** A municipal authority may not initiate or proceed with more than one proposed annexation at any one time concerning the same land.

**(2)** A municipal authority may not initiate or proceed with a proposed annexation when the municipal authority is proceeding with an amalgamation, unless the annexation is of the type referred to in section 103(2).

1994 cM-26.1 s115

**Initiation of annexation**

**116(1)** A municipal authority initiates the annexation of land by giving written notice of the proposed annexation to

- (a) the one or more municipal authorities from which the land is to be annexed,
- (b) the Municipal Government Board, and
- (c) any local authority that the initiating municipal authority considers would be affected by the proposed annexation.

**(2)** The notice for an annexation must

- (a) describe the land proposed to be annexed,
- (b) set out the reasons for the proposed annexation, and
- (c) include proposals for
  - (i) consulting with the public about the proposed annexation, and
  - (ii) meeting with the owners of the land to be annexed, and keeping them informed about the progress of the negotiations.

1994 cM-26.1 s116

**Direct negotiations**

**117(1)** The municipal authorities from which the land is to be annexed must, on receipt of the notice under section 116, meet with the initiating municipal authority to discuss the proposals included in the notice and negotiate the proposals in good faith.

**(2)** If there are matters on which there is no agreement, the initiating municipal authority and the one or more municipal authorities from which the land is to be annexed must, during the negotiations, attempt to use mediation to resolve those matters.

1994 cM-26.1 s117;1999 c11 s7

**Report on negotiations**

**118(1)** On conclusion of the negotiations, the initiating municipal authority must prepare a report that describes the results of the negotiations and that includes

- (a) a list of the matters agreed on and those on which there is no agreement between the municipal authorities,
- (a.1) if there were matters on which there was no agreement, a description of the attempts to use mediation and, if mediation did not occur, the reasons for this,

- (b) a description of the public consultation processes involved in the negotiations, and
- (c) a summary of the views expressed during the public consultation processes.

(2) The report must be signed by the initiating municipal authority and by the municipal authorities from which the land is to be annexed that are prepared to sign and must include a certificate by the initiating municipal authority stating that the report accurately reflects the results of the negotiations.

(3) A municipal authority that does not sign the report may include in the report its reasons for not signing.

1994 cM-26.1 s118;1999 c11 s8

#### **Disposition of report**

**119(1)** The initiating municipal authority must submit the completed report to the Municipal Government Board and send a copy of it to the municipal authorities from which the land is to be annexed and any other local authority the initiating municipal authority considers would be affected.

(2) If the initiating municipal authority indicates in the report that it wishes to proceed with the annexation, the report becomes the initiating municipal authority's application for the annexation.

1994 cM-26.1 s119

#### **General agreement on proposed annexation**

**120(1)** If the initiating municipal authority wishes the annexation to proceed and the Municipal Government Board is satisfied that the affected municipal authorities and the public are generally in agreement with the annexation, the Board must notify the Minister and all the local authorities that it considers would be affected by the annexation, and anyone else the Board considers should be notified, that

- (a) there appears to be general agreement with the proposed annexation, and
- (b) unless objections to the annexation are filed with the Board by a specified date, the Board will make its recommendation to the Minister without holding a public hearing.

(2) If no objections are filed with the Board by the specified date, the Board must

- (a) consider the principles, standards and criteria on annexation established under section 76, and

- (b) prepare a written report with its recommendations and send it to the Minister.
- (3) If objections are filed with the Board by the specified date, the Board
- (a) may investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area, and
  - (b) must conduct one or more hearings in respect of the annexation and allow any affected person to appear before the Board at a hearing.

1994 cM-26.1 s120

**No general agreement on proposed annexation**

**121** If the initiating municipal authority wishes the annexation to proceed and the Municipal Government Board is not satisfied that the affected municipal authorities or the public are in general agreement with the annexation, the Board

- (a) must notify the Minister and all the local authorities that it considers would be affected by the annexation, and anyone else the Board considers should be notified, that there is not general agreement with the proposed annexation,
- (b) may investigate, analyze and make findings of fact about the annexation, including the probable effect on local authorities and on the residents of an area, and
- (c) must conduct one or more hearings in respect of the annexation and allow any affected person to appear before the Board at a hearing.

1994 cM-26.1 s121

**Notice of hearing and costs**

**122(1)** The Municipal Government Board must publish a notice of a hearing under section 120(3) or 121 at least once a week for 2 consecutive weeks in a newspaper or other publication circulating in the affected area, the 2nd notice being not less than 6 days before the hearing.

(2) The Municipal Government Board may determine the costs of and incidental to a hearing and decide by whom and to whom the costs are to be paid.

(3) Section 502 applies to a decision of the Board relating to costs under this section.

1994 cM-26.1 s122

**Board's report**

**123** After one or more hearings under section 120(3) or 121 have been held and after considering the reports and representations made to it and the principles, standards and criteria on annexation established under section 76, the Board must prepare a written report of its findings and recommendations and send it to the Minister.

1994 cM-26.1 s123

**Contents of report**

**124(1)** A report by the Municipal Government Board to the Minister under this Division must set out

- (a) a recommendation on whether land should be annexed to the initiating municipal authority or other municipal authority;
- (b) if it is recommending annexation, a description of the land, whether there should be revenue sharing and any terms, conditions and other things the Board considers necessary or desirable to implement the annexation.

**(2)** If the Board does not recommend that land be annexed in its report, the Board must provide the report to all local authorities that it considers would be affected by the annexation.

1994 cM-26.1 s124

**Annexation order**

**125** The Lieutenant Governor in Council, after considering the report of the Board, may by order annex land from a municipal authority to another municipal authority.

1994 cM-26.1 s125;1996 c30 s5

**Annexation order without report**

**126** Despite sections 116 to 125, the Lieutenant Governor in Council, on the recommendation of the Minister, may by order annex land to a municipal authority.

1994 cM-26.1 s126;1996 c30 s6

**Contents of order**

**127** An order to annex land to a municipal authority may

- (a) require a municipal authority to pay compensation to another municipal authority in an amount set out in the order or to be determined by means specified in the order, including arbitration under the *Arbitration Act*,
- (b) dissolve a municipal authority as a result of the annexation, and

- (c) deal with any of the matters referred to in section 89.

1994 cM-26.1 s127

#### **Public utilities**

**127.1(1)** In this section, “utility agreement” means an agreement approved by the Alberta Utilities Commission in which a municipality grants a right to a person to provide a public utility in all or part of the municipality.

**(2)** An annexation of land does not affect any right under a utility agreement to provide a public utility on the annexed land unless the annexation order provides otherwise.

**(3)** This section does not apply to a right to provide a natural gas service if the right is subject to section 23 of the *Gas Distribution Act*.

RSA 2000 cM-26 s127.1; 2007 cA-37.2 s82(17)

#### **Annexation refused**

**128** If an application for an annexation of land is refused, the Minister must notify the initiating municipal authority of the refusal and the initiating municipal authority may not make another annexation application concerning the same land for a period of one year after it receives notice of the refusal.

1994 cM-26.1 s128

## **Division 7 Dissolution**

#### **Application**

**129** This Division does not apply to the dissolution of a municipality as a result of an annexation.

1994 cM-26.1 s129

#### **Viability review**

**130(1)** The Minister must, before a municipality is dissolved,

- (a) undertake a viability review, and
- (b) after completing the viability review, hold a vote of the electors of the municipality on the proposed dissolution.

**(2)** The Minister may undertake a viability review in respect of a municipality if

- (a) the Minister receives a request for a viability review from the council of the municipality,
- (b) the Minister receives a sufficient petition requesting a viability review from electors of the municipality numbering at least 30% of the municipality’s population



or, in the case of a summer village, a sufficient petition requesting the review from a majority of the electors of the summer village, or

(c) the Minister believes a viability review is warranted.

(3) A viability review must be conducted in a manner determined by the Minister.

(4) If the Minister receives a request in accordance with subsection (2)(a) or a sufficient petition in accordance with subsection (2)(b) and in the Minister's opinion a process other than a viability review is more appropriate, the Minister may require that that process be undertaken instead of undertaking a viability review.

RSA 2000 cM-26 s130;2013 c9 s2

#### **Completion of viability review**

**130.1** After completing a viability review, the Minister may

- (a) by order direct the council or the chief administrative officer to take any actions, based on the results of the viability review, that the Minister considers appropriate to ensure the viability of the municipality, or
- (b) hold a vote of the electors of the municipality on whether the municipality should
  - (i) be dissolved, or
  - (ii) not be dissolved, but be required to take any actions, based on the results of the viability review, that the Minister considers appropriate to ensure the viability of the municipality.

2013 c9 s2

#### **Vote**

**130.2(1)** A vote held under section 130.1(b) must be conducted in accordance with the *Local Authorities Election Act* as modified by directions given by the Minister.

(2) If the electors vote that the municipality should be dissolved, the Minister must recommend to the Lieutenant Governor in Council that the municipality be dissolved in accordance with section 133.

(3) If the electors vote that the municipality should not be dissolved, the Minister must by order direct the council or the chief administrative officer to take the actions referred to in section 130.1(b)(ii).

2013 c9 s2

**Dismissal**

**130.3** If an order of the Minister under section 130.1(a) or 130.2(3) is not carried out to the satisfaction of the Minister, the Minister may dismiss the council or any member of it or the chief administrative officer of the municipality, and section 574(3) to (6) apply in respect of the dismissal.

2013 c9 s2

**131 and 132** Repealed 2013 c9 s3.

**Dissolution order**

**133(1)** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order dissolve a municipality.

**(2)** A dissolution order

- (a) must direct that all or part of the land in the dissolved municipality becomes part of another municipal authority,
- (b) may deal with any of the matters referred to in section 89, and
- (c) may appoint a liquidator and specify the liquidator's powers, duties and functions.

1994 cM-26.1 s133;1995 c24 s19

**Tax**

**134** If the liabilities of the dissolved municipality exceed its assets, the Lieutenant Governor in Council may authorize the successor of the dissolved municipality to impose an additional tax under Part 10 on property located in the area of the dissolved municipality to pay for those excess liabilities.

1994 cM-26.1 s134;1998 c24 s5

**Transitional**

**134.1(1)** In this section, "amending Act" means the *Municipal Government Amendment Act, 2013*.

**(2)** A dissolution study that was commenced, but not completed, before the coming into force of the amending Act may, as determined by the Minister, be continued

- (a) as a dissolution study under and in conformity with this Act as it read before the coming into force of the amending Act, or
- (b) as a viability review under and in conformity with this Act as it reads after the coming into force of the amending Act.

2013 c9 s4

## Division 8 General Provisions

### Effect of certain orders

**135(1)** When an order under this Part has the effect of including or placing an area of land that was in one municipal authority, called in this section the “old municipal authority”, in another municipal authority, called in this section the “new municipal authority”, as a result of the formation, annexation, amalgamation or dissolution of a municipal authority, then, unless the order provides otherwise,

- (a) the new municipal authority becomes the successor of the old municipal authority with respect to that area of land and the old municipal authority ceases to have any jurisdiction with respect to that area of land,
  - (a.1) all taxes due to the old municipal authority are deemed to be arrears of taxes due to the new municipal authority and may be collected and dealt with by the new municipal authority as if it had imposed the taxes,
  - (a.2) all rights of action and actions by or against the old municipal authority that relate to that area of land become rights of action and actions by or against the new municipal authority and cease to be rights of action and actions by or against the old municipal authority,
- (b) all the assets, liabilities, rights, duties, functions and obligations of the old municipal authority that relate to that area of land automatically pass to the new municipal authority and cease to be those of the old municipal authority,
- (c) if at the time of the notice under section 103 or 116, any land or any portion of it is designated or required to be provided as a public utility lot, environmental reserve, municipal reserve or municipal and school reserve under a former Act as defined in Part 17, the ownership of the land becomes vested in the new municipal authority in place of the old municipal authority, and
- (d) bylaws and resolutions of the old municipal authority that apply specifically to the area of land continue to apply to it until repealed or others are made in their place by the new municipal authority.

**(2)** If the land referred to in subsection (1)(c) is sold or money instead of land is received by the old municipal authority after the notice under section 103 or 116 is received, the proceeds of the sale or the money received must be paid to the new municipal authority.

- (3) The new municipal authority may only use the proceeds of the sale or the money received for purposes for which the old municipal authority could have used it.
- (4) The Lieutenant Governor in Council may
- (a) authorize the council of the new municipal authority to impose an additional tax under Part 10 on the area of land to meet obligations under a borrowing made by the old municipal authority in respect of that area of land, or
  - (b) make any provision necessary to protect any rights that any person has in relation to the area of land.
- (4.1) The Minister may direct the transfer of assets and liabilities from one municipal authority to another.
- (5) This section does not abrogate or affect agreements described in section 30 or 45.

1994 cM-26.1 s135;1995 c24 s20;1996 c30 s8;1998 c24 s6

#### **Power to effectuate transfer of land and other property**

**136** Where an order under this Division requires the ownership of land or other property to be transferred to a municipal authority, the Minister may do whatever is necessary to give effect to section 135(1) or a direction under section 135(4.1).

1994 cM-26.1 s136

#### **Transitional and other matters**

**137(1)** An order of formation, change of status, amalgamation, annexation or dissolution may, in respect of any municipal authority affected by the order, contain provisions dealing with the following:

- (a) assessment and taxation;
- (b) property;
- (c) employees;
- (d) any matter required to properly effect or deal with the formation, change of status, amalgamation, annexation or dissolution, whether transitional or otherwise;
- (e) the application, addition, change or substitution of this or another enactment to give effect to the order.

(2) The provisions referred to in subsection (1) may deal with rights, obligations, liabilities, assets and any other thing that the Lieutenant Governor in Council considers is appropriate to be dealt with in the order and may operate despite a collective agreement.

(3) The Lieutenant Governor in Council may amend or repeal a provision referred to in subsection (1) that is contained in an order of formation, change of status, amalgamation, annexation or dissolution without having to comply with the requirements for passing the original order.

1994 cM-26.1 s137

**Retroactivity of orders**

**138(1)** An order of the Lieutenant Governor in Council under this Part may provide

- (a) for the retroactive application of the order or any of its provisions, and
- (b) that the order or any of its provisions come into force on different dates.

(2) An order or any of its provisions may only be made retroactive to a date in the year immediately before the calendar year in which the order is made.

(3) Any error in any order made under this Part may be corrected by subsequent order, and the correcting order may be made effective as of the date of the original order or on some other later date that is specified in the order.

1994 cM-26.1 s138

**Orders published**

**139(1)** An order of the Lieutenant Governor in Council or the Minister made under this Part must be published in The Alberta Gazette.

(2) Publication of an order of the Lieutenant Governor in Council or the Minister made under this Part is conclusive proof of the fulfilment of any conditions precedent to the order.

1994 cM-26.1 s139

**Regulations Act**

**140** The *Regulations Act* does not apply to an order of the Lieutenant Governor in Council or the Minister made under this Part.

1994 cM-26.1 s140

**Location of boundaries**

**141(1)** In this section,

- (a) “survey” means a survey made under the *Surveys Act* or the *Canada Lands Surveys Act* (Canada);

(b) “surveyed land” means land that has been surveyed under the *Surveys Act* or the *Canada Lands Surveys Act* (Canada).

(2) Where the boundary of a municipality is described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, the boundary is the side of the road allowance on which monuments or posts are placed under a survey, except in the case of correction lines or where the description otherwise specifies.

(3) In the case of correction lines, the boundary is the south side of the road allowance.

(4) Where a road is the boundary of a municipality and land is acquired to widen the road, the land acquired automatically falls within that boundary.

(5) A road allowance between an Indian reserve and a municipality is in the municipality despite anything to the contrary in this section.

(6) Where a boundary of a municipality is described by reference to a river, the boundary is the right bank of the river facing downstream unless the description otherwise specifies.

1994 cM-26.1 s141

## **Part 5 Councils, Councillors and Council Committees**

### **Division 1 Councils and Council Committees**

#### **Councils as governing bodies**

**142(1)** Each municipality is governed by a council.

(2) A council is a continuing body.

1994 cM-26.1 s142

#### **Number of councillors for municipalities**

**143(1)** A council consists of the number of councillors provided for under this section, one of whom is the chief elected official, but in no case may a council consist of fewer than 3 councillors.

(2) The council of a city or town consists of 7 councillors unless the council passes a bylaw specifying a higher or lower odd number.

(3) The council of a village or summer village consists of 3 councillors unless the council passes a bylaw specifying a higher odd number.

(4) The council of a municipal district or specialized municipality consists of the number of councillors specified in the order forming it unless the council passes a bylaw specifying a higher or lower odd number.

(5) The council of any other type of municipality consists of the number of councillors provided for it by or under the enactment establishing it.

1994 cM-26.1 s143

#### **Bylaw changing number of councillors**

**144(1)** A bylaw passed under section 143 must be passed at least 180 days before the general election at which it is to take effect.

(2) If a bylaw is passed less than 180 days before the next general election, it takes effect at the 2nd general election after the date on which it is passed.

(3) A bylaw passed under section 143 must be advertised.

1994 cM-26.1 s144

#### **Bylaws - council and council committees**

**145** A council may pass bylaws in relation to the following:

- (a) the establishment and functions of council committees and other bodies;
- (b) the procedure and conduct of council, council committees and other bodies established by the council, the conduct of councillors and the conduct of members of council committees and other bodies established by the council.

1994 cM-26.1 s145

#### **Composition of council committees**

**146** A council committee may consist

- (a) entirely of councillors,
- (b) of a combination of councillors and other persons, or
- (c) subject to section 154(2), entirely of persons who are not councillors.

1994 cM-26.1 s146

## Division 2 Elections, Appointments and Ward System

### Election of councillors

**147(1)** Subject to Division 5, councillors other than a chief elected official are to be elected in accordance with the *Local Authorities Election Act*.

**(2)** The election is to be by a vote of the electors of the whole municipality unless the municipality is divided into wards, in which case section 148 applies.

1994 cM-26.1 s147

### Division of municipality into wards

**148(1)** Unless otherwise provided for in a bylaw under this section, when a municipality is divided into wards,

- (a) only an elector who is resident in the ward may vote for a councillor in that ward, and
- (b) councillors are elected for each ward.

**(2)** A council may by bylaw

- (a) divide the municipality into wards and establish their boundaries,
- (b) in the case of wards established for a municipal district or a specialized municipality, change the number of wards and their boundaries,
- (c) give each ward established or changed a name or number, or both,
- (d) state the number of councillors to be elected for each ward established or changed, and
- (e) in the case of any municipality, including a municipal district or specialized municipality, eliminate the wards.

**(3)** A council may by bylaw provide for councillors that

- (a) are in addition to the councillors elected for each ward,
- (b) are elected by a vote of the electors of the whole municipality, and
- (c) are councillors for the whole municipality, not a ward.

**(4)** A council may by bylaw provide that all councillors



- (a) are nominated by ward,
  - (b) are elected by a vote of the electors of the whole municipality, and
  - (c) are councillors for the whole municipality, not a ward.
- (5) A council may by bylaw provide that all councillors
- (a) are nominated by ward,
  - (b) are elected by a vote of the electors of the whole municipality, and
  - (c) are councillors for the ward in which they were nominated.

1994 cM-26.1 s148

**Passing bylaw**

**149(1)** A bylaw under section 148 must be passed at least 180 days before the general election at which it is to take effect.

(2) If a bylaw is passed less than 180 days before the next general election, it takes effect at the 2nd general election after the date on which it is passed.

(3) A bylaw passed under section 148 must be advertised.

1994 cM-26.1 s149

**Election or appointment of chief elected official**

**150(1)** The chief elected official of a city or town is to be elected by a vote of the electors of the municipality unless the council passes a bylaw

- (a) requiring council to appoint the chief elected official from among the councillors,
- (b) specifying when the appointment is to start, and
- (c) specifying the term of the appointment.

(2) The chief elected official of a village, summer village or municipal district is to be appointed by council from among the councillors unless the council passes a bylaw providing that the official is to be elected by a vote of the electors of the municipality.

(3) The chief elected official of a specialized municipality is to be elected under subsection (1) or appointed under subsection (2) as specified in the order that forms the specialized municipality.

(4) If a chief elected official is to be elected by a vote of the electors of the municipality, the *Local Authorities Election Act* applies to the election.

1994 cM-26.1 s150

#### **Passing bylaw**

**151(1)** A bylaw under section 150 must be passed at least 180 days before the general election at which it is to take effect.

(2) If a bylaw is passed less than 180 days before the next general election, it takes effect at the 2nd general election after the date on which it is passed.

(3) A bylaw passed under section 150 must be advertised.

1994 cM-26.1 s151

#### **Deputy and acting chief elected officials**

**152(1)** A council must appoint one or more councillors as deputy chief elected official so that

- (a) only one councillor will hold that office at any one time, and
- (b) the office will be filled at all times.

(2) A deputy chief elected official must act as the chief elected official

- (a) when the chief elected official is unable to perform the duties of the chief elected official, or
- (b) if the office of chief elected official is vacant.

(3) A council may appoint a councillor as an acting chief elected official to act as the chief elected official

- (a) if both the chief elected official and the deputy chief elected official are unable to perform the duties of the chief elected official, or
- (b) if both the office of chief elected official and the office of deputy chief elected official are vacant.

1994 cM-26.1 s152

### **Division 3**

#### **Duties, Titles and Oaths of Councillors**

##### **General duties of councillors**

**153** Councillors have the following duties:

- (a) to consider the welfare and interests of the municipality as a whole and to bring to council's attention anything that would promote the welfare or interests of the municipality;
- (b) to participate generally in developing and evaluating the policies and programs of the municipality;
- (c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
- (d) to obtain information about the operation or administration of the municipality from the chief administrative officer or a person designated by the chief administrative officer;
- (e) to keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public;
- (f) to perform any other duty or function imposed on councillors by this or any other enactment or by the council.

1994 cM-26.1 s153

**General duties of chief elected official**

**154(1)** A chief elected official, in addition to performing the duties of a councillor, must

- (a) preside when in attendance at a council meeting unless a bylaw provides that another councillor or other person is to preside, and
- (b) perform any other duty imposed on a chief elected official by this or any other enactment or bylaw.

**(2)** The chief elected official is a member of all council committees and all bodies to which council has the right to appoint members under this Act, unless the council provides otherwise.

**(3)** Despite subsection (2), the chief elected official may be a member of a board, commission, subdivision authority or development authority established under Part 17 only if the chief elected official is appointed in the chief elected official's personal name.

1994 cM-26.1 s154;1995 c24 s21

**Titles of chief elected official and other councillors**

**155** A councillor is to have the title “councillor” and a chief elected official that of “chief elected official” unless the council directs that another title appropriate to the office be used.

1994 cM-26.1 s155

**Taking of oath**

**156** A councillor, a chief elected official and a deputy and acting chief elected official may not carry out any power, duty or function until that person has taken the official oath prescribed by the *Oaths of Office Act*.

1994 cM-26.1 s156

**Division 4  
Term of Office****Local Authorities Election Act**

**157** The term of office of councillors is governed by the *Local Authorities Election Act*.

1994 cM-26.1 s157

**Extension of term**

**158(1)** If the first election of a newly formed municipality, whether formed under this or another enactment, is less than 18 months before the date set by the *Local Authorities Election Act* for the next general election, the Minister may order that the next general election not take place.

**(2)** If the Minister makes an order under subsection (1), the terms of the offices are to continue until immediately before the beginning of the organizational meeting following the next general election.

1994 cM-26.1 s158

**Appointed chief elected officials**

**159(1)** A chief elected official who is to be appointed under section 150 must be appointed at each organizational meeting of the council, unless otherwise provided by bylaw.

**(2)** The term of office of an appointed chief elected official starts immediately on appointment and ends on the appointment of the next chief elected official.

**(3)** The term of office of an appointed chief elected official may not extend beyond the term of office of that person as councillor.

1994 cM-26.1 s159

## Division 5 Vacancies and Quorum

### Positions unfilled at general election

**160(1)** If at a general election persons are not elected to fill all the offices on council, the Minister may

- (a) fill the vacancies by appointing persons as councillors,
- (b) if there is no quorum, order that the councillors who have been elected constitute a quorum,
- (c) if there is no quorum, order that the remaining councillors constitute a quorum and appoint an official administrator for the purposes of supervision under section 575, or
- (d) appoint an official administrator who has all the powers and duties of the council.

**(2)** Persons appointed under subsection (1)(a) hold office until the vacancies are filled by a by-election.

**(3)** If council is unable to or does not within a reasonable time hold a by-election to fill a vacancy referred to in subsection (1), the Minister may by order direct that the chief administrative officer conduct a by-election to fill the vacancy.

1994 cM-26.1 s160

### Resignation

**161(1)** The resignation of a councillor must be in writing and given to the chief administrative officer.

**(2)** A chief elected official appointed by council who resigns the office of chief elected official remains on the council as a councillor.

**(3)** The resignation is effective on the date it is received by the chief administrative officer even if a later date is set out in the resignation.

**(4)** The chief administrative officer must report the resignation at the first council meeting after receiving the resignation.

1994 cM-26.1 s161

### Vacancy in position of councillor

**162** A council must hold a by-election to fill a vacancy on council unless

- (a) the vacancy occurs in the 6 months before a general election, or

- (b) the council consists of 6 or more councillors and the vacancy occurs
  - (i) in the 18 months before a general election and there is only one vacancy, or
  - (ii) in the 12 months before a general election and the number of councillors remaining is at least one more than the majority of the number of councillors comprising the council under section 143.

1994 cM-26.1 s162

**Chief elected official (elected) vacancy**

**163** If the chief elected official is elected by a vote of the electors of the whole municipality and the office becomes vacant, the vacancy must be filled

- (a) if on the date the vacancy occurs there are 12 months or more before a general election, by a by-election, or
- (b) if on the date the vacancy occurs there are less than 12 months before a general election, either by a by-election or by council appointing at the next council meeting one or more councillors as chief elected official so that
  - (i) only one councillor holds that office at any one time, and
  - (ii) the office is filled all the time.

1994 cM-26.1 s163

**Chief elected official (appointed) vacancy**

**164** If, under section 150, the chief elected official is appointed by council from among the councillors and the office becomes vacant, council must at the next council meeting appoint one or more councillors as chief elected official so that

- (a) only one councillor holds that office at any one time, and
- (b) the office is filled all the time.

1994 cM-26.1 s164

**Election day**

**165** Unless a council sets an earlier date, election day for a by-election under section 162 or 163 is 90 days after the vacancy occurs.

1994 cM-26.1 s165

**Minister orders by-election**

**166** If a vacancy must be filled by by-election under section 162 or 163 and a by-election is not held within 90 days after the vacancy occurs, the Minister may by order

- (a) set another date for the by-election;
- (b) extend the time for filling that vacancy to the next general election;
- (c) reduce the quorum for council;
- (d) direct the chief administrative officer to conduct the by-election;
- (e) take any other action the Minister considers necessary.

1994 cM-26.1 s166;1998 c24 s7

**Quorum**

**167(1)** Except as provided in this or another enactment, the quorum of a council is

- (a) the majority of all the councillors that comprise the council under section 143, or
- (b) if there is a vacancy on the council and the council is not required to hold a by-election under section 162 or 163, the majority of the remaining councillors that comprise the council under section 143.

**(2)** For the purposes of quorum, a councillor is deemed to be absent for a vote if, under this or any other enactment,

- (a) the councillor is required to abstain from the vote, or
- (b) the councillor is permitted to abstain from the vote and does abstain.

1994 cM-26.1 s167

**No quorum**

**168(1)** The Minister may make an order described in subsection (2) in the following situations:

- (a) vacancies on council through resignations or disqualifications have reduced the number of councillors to less than a quorum;
- (b) the number of councillors able to attend a council meeting is less than a quorum;

- (c) councillors are required to abstain from voting on a matter or are permitted to abstain from voting on a matter and have decided to abstain and the number of remaining councillors able to vote is less than a quorum.
- (2) If subsection (1) applies, the Minister may
- (a) order that the remaining councillors constitute a quorum,
  - (b) order that the remaining councillors constitute a quorum and appoint an official administrator for the purposes of supervision under section 575, or
  - (c) appoint an official administrator who has all the powers and duties of the council.
- (3) In a situation described in subsection (1)(c), the Minister may, as an alternative to the options in subsection (2),
- (a) order that all councillors may vote on the matter if otherwise eligible, or
  - (b) direct the chief administrative officer to conduct a vote of the electors on the matter with directions respecting the date of the vote of the electors, the question to be voted on by the electors and procedural matters.
- (4) The council must comply with the result of the vote of the electors held under subsection (3)(b).
- (5) A councillor is not disqualified for having voted on a matter
- (a) in accordance with the Minister's order under subsection (3)(a), or
  - (b) for the purpose of complying with the results of a vote conducted under subsection (3)(b).

1994 cM-26.1 s168

## **Division 6**

### **Pecuniary Interest of Councillors**

#### **Definitions**

**169** In this Division,

- (a) “corporation”, “director”, “distributing corporation”, “officer”, “shareholder”, “voting rights” and “voting shares” have the meanings given to them in the *Business Corporations Act*;



- (b) “councillor’s family” means the councillor’s spouse or adult interdependent partner, the councillor’s children, the parents of the councillor and the parents of the councillor’s spouse or adult interdependent partner;
- (c) “spouse” means the husband or wife of a married person but does not include a spouse who is living separate and apart from the person if the person and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order.

RSA 2000 cM-26 s169;2002 cA-4.5 s60

**Pecuniary interest**

**170(1)** Subject to subsection (3), a councillor has a pecuniary interest in a matter if

- (a) the matter could monetarily affect the councillor or an employer of the councillor, or
- (b) the councillor knows or should know that the matter could monetarily affect the councillor’s family.

**(2)** For the purposes of subsection (1), a person is monetarily affected by a matter if the matter monetarily affects

- (a) the person directly,
- (b) a corporation, other than a distributing corporation, in which the person is a shareholder, director or officer,
- (c) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the person is a director or officer, or
- (d) a partnership or firm of which the person is a member.

**(3)** A councillor does not have a pecuniary interest by reason only of any interest

- (a) that the councillor, an employer of the councillor or a member of the councillor’s family may have as an elector, taxpayer or utility customer of the municipality,
- (b) that the councillor or a member of the councillor’s family may have by reason of being appointed by the council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality or by reason of being appointed as the representative of the council on another body,

- (c) that the councillor or member of the councillor's family may have with respect to any allowance, honorarium, remuneration or benefit to which the councillor or member of the councillor's family may be entitled by being appointed by the council to a position described in clause (b),
- (d) that the councillor may have with respect to any allowance, honorarium, remuneration or benefit to which the councillor may be entitled by being a councillor,
- (e) that the councillor or a member of the councillor's family may have by being employed by the Government of Canada, the Government of Alberta or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the councillor or family member is an employee,
- (f) that a member of the councillor's family may have by having an employer, other than the municipality, that is monetarily affected by a decision of the municipality,
- (g) that the councillor or a member of the councillor's family may have by being a member or director of a non-profit organization as defined in section 241(f) or a service club,
- (h) that the councillor or member of the councillor's family may have
  - (i) by being appointed as the volunteer chief or other volunteer officer of a fire or ambulance service or emergency measures organization or other volunteer organization or service, or
  - (ii) by reason of remuneration received as a volunteer member of any of those voluntary organizations or services,
- (i) of the councillor, an employer of the councillor or a member of the councillor's family that is held in common with the majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part,
- (j) that is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor, or
- (k) that a councillor may have by discussing or voting on a bylaw that applies to businesses or business activities when the councillor, an employer of the councillor or a

member of the councillor's family has an interest in a business, unless the only business affected by the bylaw is the business of the councillor, employer of the councillor or the councillor's family.

(4) Subsection (3)(g) and (h) do not apply to a councillor who is an employee of an organization, club or service referred to in those clauses.

1994 cM-26.1 s170;1995 c24 s22;1996 c30 s9

#### **Bylaw requiring statement of disclosure**

**171** A council may by bylaw

- (a) require that each councillor file with a designated officer a statement of the name or names of
  - (i) the councillor's family,
  - (ii) the employers of the councillor,
  - (iii) each corporation, other than a distributing corporation, in which the councillor is a shareholder, director or officer,
  - (iv) each distributing corporation in which the councillor beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation or of which the councillor is a director or officer, and
  - (v) each partnership or firm of which the councillor is a member,

and

- (b) require the designated officer to compile a list of all the names reported on the statements filed with the officer and give a copy of the list to the employees of the municipality indicated in the bylaw.

1994 cM-26.1 s171;1996 c30 s10

#### **Disclosure of pecuniary interest**

**172(1)** When a councillor has a pecuniary interest in a matter before the council, a council committee or any other body to which the councillor is appointed as a representative of the council, the councillor must, if present,

- (a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,
- (b) abstain from voting on any question relating to the matter,

- (c) subject to subsection (3), abstain from any discussion of the matter, and
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

**(2)** If the matter with respect to which the councillor has a pecuniary interest is the payment of an account for which funds have previously been committed, it is not necessary for the councillor to leave the room.

**(3)** If the matter with respect to which the councillor has a pecuniary interest is a question on which, under this Act or another enactment, the councillor as a taxpayer, an elector or an owner has a right to be heard by the council,

- (a) it is not necessary for the councillor to leave the room, and
- (b) the councillor may exercise a right to be heard in the same manner as a person who is not a councillor.

**(4)** If a councillor is temporarily absent from a meeting when a matter in which the councillor has a pecuniary interest arises, the councillor must immediately on returning to the meeting, or as soon as the councillor becomes aware that the matter has been considered, disclose the general nature of the councillor's interest in the matter.

**(5)** The abstention of a councillor under subsection (1) and the disclosure of a councillor's interest under subsection (1) or (4) must be recorded in the minutes of the meeting.

**(6)** If a councillor has disclosed a pecuniary interest at a council committee meeting and council considers a report of the committee in respect of which the councillor disclosed a pecuniary interest, the councillor must disclose the pecuniary interest at the council meeting and subsection (1) applies to the councillor.

1994 cM-26.1 s172

#### **Effect of pecuniary interest on agreements**

**173** No agreement with a municipality under which a councillor of the municipality has a pecuniary interest is binding on the municipality unless

- (a) the agreement is for work in an emergency,
- (b) the agreement is
  - (i) for the sale of goods, or

- (ii) for the provision of services to the municipality or to persons contracting with the municipality  
  
at competitive prices by a dealer in those goods or services that is incidental to or in the ordinary course of the business,
- (c) the proposed agreement is approved by council before the agreement is signed by the municipality, or
- (d) the agreement was entered into before the term of the councillor started.

1994 cM-26.1 s173;1996 c30 s11

## **Division 7 Disqualification of Councillors**

### **Reasons for disqualification**

**174(1)** A councillor is disqualified from council if

- (a) when the councillor was nominated, the councillor was not eligible for nomination as a candidate under the *Local Authorities Election Act*;
- (b) the councillor ceases to be eligible for nomination as a candidate under the *Local Authorities Election Act*;
- (b.1) the councillor
  - (i) fails to file a disclosure statement as required under section 147.4 of the *Local Authorities Election Act* before the end of the late filing period provided under section 147.7 of the *Local Authorities Election Act*, and
  - (ii) has not been relieved from the obligation to file a disclosure statement by a court order under section 147.8 of the *Local Authorities Election Act*;
- (c) the councillor becomes a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;
- (d) the councillor is absent from all regular council meetings held during any period of 8 consecutive weeks, starting with the date that the first meeting is missed, unless subsection (2) applies;
- (e) the councillor is convicted

- (i) of an offence punishable by imprisonment for 5 or more years, or
  - (ii) of an offence under section 123, 124 or 125 of the *Criminal Code* (Canada);
- (f) the councillor does not vote on a matter at a council meeting at which the councillor is present, unless the councillor is required or is permitted to abstain from voting under this or any other enactment;
- (g) the councillor contravenes section 172;
- (h) the councillor has a pecuniary interest in an agreement that is not binding on the municipality under section 173;
- (i) the councillor uses information obtained through being on council to gain a pecuniary benefit in respect of any matter;
- (j) the councillor becomes an employee of the municipality;
- (k) the councillor is liable to the municipality under section 249.
- (2)** A councillor is not disqualified by being absent from regular council meetings under subsection (1)(d) if the absence is authorized by a resolution of council passed
- (a) at any time before the end of the last regular meeting of the council in the 8-week period, or
  - (b) if there is no other regular meeting of the council during the 8-week period, at any time before the end of the next regular meeting of the council.
- (3)** For the purposes of this section, a councillor is not considered to be absent from a council meeting if the councillor is absent on council business at the direction of council.
- (4)** A councillor who is disqualified under this section is eligible to be elected at the next general election in the municipality if the person is eligible for nomination under the *Local Authorities Election Act*.

RSA 2000 cM-26 s174;2009 c10 s3.1;2010 c9 s2

## **Division 8 Enforcement of Disqualification**

### **Resignation on disqualification**

**175(1)** A councillor that is disqualified must resign immediately.

- (2) If a councillor does not resign immediately,
- (a) the council may apply to a judge of the Court of Queen's Bench for
    - (i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a councillor, or
    - (ii) an order declaring the person to be disqualified from council,
  - or
  - (b) an elector who
    - (i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a councillor, and
    - (ii) pays into court the sum of \$500 as security for costs,may apply to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from council.
- (3) An application under this section may only be made within 3 years from the date the disqualification is alleged to have occurred.
- (4) An application under this section may be started or continued whether or not an election has been held between the time the disqualification is alleged to have occurred and the time the application is or was commenced and whether or not the person in respect of whom the application is being brought
- (a) resigns before or after the election,
  - (b) was re-elected in the election,
  - (c) was not re-elected or did not run in the election, or
  - (d) has completed a term of office.

RSA 2000 cM-26 s175;2009 c53 s119

**Decision on disqualification application**

- 176(1)** After hearing an application under this Division and any evidence, either oral or by affidavit, that is required, the judge may
- (a) declare the person to be disqualified and a position on council to be vacant,
  - (b) declare the person able to remain a councillor, or

(c) dismiss the application.

**(2)** If a judge declares a person disqualified because information obtained through being on council was used to gain a pecuniary benefit, the judge may order the person to pay to the municipality a sum of damages determined by the Court.

1994 cM-26.1 s176

#### **Inadvertence or genuine error**

**177** A judge who hears an application under this Division and finds that the person is disqualified under section 174(1)(f), (h) or (i) may still dismiss the application if the judge is of the opinion that the disqualification arose inadvertently or by reason of a genuine error in judgment.

1994 cM-26.1 s177

#### **Appeal**

**178(1)** The decision of a judge under this Division may be appealed to the Court of Appeal.

**(2)** A person who is declared disqualified under this Division and appeals that declaration remains disqualified until the appeal is finally determined.

**(3)** If, on the final determination of the appeal, the disqualification is set aside,

- (a) the Court must reinstate the person as a councillor for any unexpired portion of the term of office for which the person was elected and require any person who has been elected to fill the balance of that term to vacate the office, and
- (b) the Court may order that any money paid to the municipality under section 176(2) be repaid.

**(4)** If, on the final disposition of the appeal, the disqualification is set aside but the term of office for which the person was elected has expired, the person must not be reinstated but is eligible to be elected at the next election in the municipality if otherwise qualified.

1994 cM-26.1 s178

#### **Reimbursement of costs and expenses**

**179** The council may reimburse the person in respect of whom an application under this Division was made for any costs and expenses that the council considers reasonable, other than costs that have already been awarded to the person by the judge, if

- (a) the application is dismissed, or



- (b) an order is issued declaring the person able to remain a councillor.

1994 cM-26.1 s179

### **Division 9 Council Proceedings Requirements for Valid Action**

#### **Methods in which council may act**

**180(1)** A council may act only by resolution or bylaw.

**(2)** Where a council or municipality is required or authorized under this or any other enactment or bylaw to do something by bylaw, it may only be done by bylaw.

**(3)** Where a council is required or authorized under this or any other enactment or bylaw to do something by resolution or to do something without specifying that it be done by bylaw or resolution, it may be done by bylaw or resolution.

1994 cM-26.1 s180

#### **Requirements for valid bylaw or resolution**

**181(1)** A bylaw or resolution of council is not valid unless passed at a council meeting held in public at which there is a quorum present.

**(2)** A resolution of a council committee is not valid unless passed at a meeting of that committee held in public at which there is a quorum present.

1994 cM-26.1 s181

### **Voting**

#### **Restriction to one vote per person**

**182** A councillor has one vote each time a vote is held at a council meeting at which the councillor is present.

1994 cM-26.1 s182

#### **Requirement to vote and abstentions**

**183(1)** A councillor attending a council meeting must vote on a matter put to a vote at the meeting unless the councillor is required or permitted to abstain from voting under this or any other enactment.

**(2)** The council must ensure that each abstention and the reasons for the abstention are recorded in the minutes of the meeting.

1994 cM-26.1 s183

#### **Abstention from voting on matter discussed at public hearing**

**184** When a public hearing on a proposed bylaw or resolution is held, a councillor

- (a) must abstain from voting on the bylaw or resolution if the councillor was absent from all of the public hearing, and
- (b) may abstain from voting on the bylaw or resolution if the councillor was only absent from a part of the public hearing.

1994 cM-26.1 s184

**Recording of votes**

**185(1)** Before a vote is taken by council, a councillor may request that the vote be recorded.

**(2)** When a vote is recorded, the minutes must show the names of the councillors present and whether each councillor voted for or against the proposal or abstained.

1994 cM-26.1 s185

**Secret ballot**

**185.1(1)** Despite sections 185 and 197, at a meeting at which a council

- (a) establishes a council committee or other body under section 145, or
- (b) appoints a chief elected official under section 150,

a secret ballot must be held if requested by any councillor present at the meeting.

**(2)** A vote by secret ballot under subsection (1) must be confirmed by a resolution of council.

1998 c24 s8

**Tied vote**

**186** If there is an equal number of votes for and against a resolution or bylaw, the resolution or bylaw is defeated.

1994 cM-26.1 s186

**Passing a Bylaw****Bylaw readings**

**187(1)** Every proposed bylaw must have 3 distinct and separate readings.

**(2)** Each councillor present at the meeting at which first reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw before the bylaw receives first reading.

**(3)** Each councillor present at the meeting at which third reading is to take place must, before the proposed bylaw receives third

reading, be given or have had the opportunity to review the full text of the proposed bylaw and of any amendments that were passed after first reading.

(4) A proposed bylaw must not have more than 2 readings at a council meeting unless the councillors present unanimously agree to consider third reading.

(5) Only the title or identifying number has to be read at each reading of the bylaw.

1994 cM-26.1 s187

#### **Rescission of previous bylaw readings**

**188** The previous readings of a proposed bylaw are rescinded if the proposed bylaw

- (a) does not receive third reading within 2 years after first reading, or
- (b) is defeated on second or third reading.

1994 cM-26.1 s188

#### **Passing of bylaw**

**189** A bylaw is passed when it receives third reading and it is signed in accordance with section 213.

1994 cM-26.1 s189

#### **Coming into force**

**190(1)** A bylaw comes into force at the beginning of the day that it is passed unless otherwise provided in this or any other enactment or in the bylaw.

(2) If this or any other enactment requires a bylaw to be approved, the bylaw does not come into force until the approval is given.

(3) No bylaw may come into force on a day before it is passed unless the enactment authorizing the passing of the bylaw specifically allows for the bylaw to come into force on a day before it is passed.

1994 cM-26.1 s190

#### **Amendment and repeal**

**191(1)** The power to pass a bylaw under this or any other enactment includes a power to amend or repeal the bylaw.

(2) The amendment or repeal must be made in the same way as the original bylaw and is subject to the same consents or conditions or advertising requirements that apply to the passing of the original bylaw, unless this or any other enactment provides otherwise.

1994 cM-26.1 s191

## Meetings

### Organizational meetings

**192(1)** Except in a summer village, a council must hold an organizational meeting annually not later than 2 weeks after the 3rd Monday in October.

**(2)** The council of a summer village must hold an organizational meeting annually not later than August 31.

1994 cM-26.1 s192

### Regular council meetings

**193(1)** A council may decide at a council meeting at which all the councillors are present to hold regularly scheduled council meetings on specified dates, times and places.

**(2)** Notice of regularly scheduled meetings need not be given.

**(3)** If council changes the date, time or place of a regularly scheduled meeting, the municipality must give at least 24 hours' notice of the change

(a) to any councillors not present at the meeting at which the change was made, and

(b) to the public.

1994 cM-26.1 s193

### Special council meetings

**194(1)** The chief elected official

(a) may call a special council meeting whenever the official considers it appropriate to do so, and

(b) must call a special council meeting if the official receives a written request for the meeting, stating its purpose, from a majority of the councillors.

**(2)** A special council meeting called under subsection (1)(b) must be held within 14 days after the date that the chief elected official receives the request or any shorter period provided for by bylaw.

**(3)** The chief elected official calls a special council meeting by giving at least 24 hours' notice in writing to each councillor and the public stating the purpose of the meeting and the date, time and place at which it is to be held.

**(4)** A special council meeting may be held with less than 24 hours' notice to all councillors and without notice to the public if at least 2/3 of the whole council agrees to this in writing before the beginning of the meeting.

(5) No matter other than that stated in the notice calling the special council meeting may be transacted at the meeting unless the whole council is present at the meeting and the council agrees to deal with the matter in question.

1994 cM-26.1 s194

#### **Council committee meetings**

**195** The municipality must give at least 24 hours' notice of a council committee meeting

- (a) to the members of the council committee, and
- (b) to the public.

1994 cM-26.1 s195

#### **Method of giving notice**

**196(1)** Notice of a council or council committee meeting is deemed to have been given to a councillor or member of a council committee if the notice is delivered to an adult person at the councillor's or member's home or place of business.

(2) Notice of a council or council committee meeting to the public is sufficient if the notice is given in a manner specified by council.

1994 cM-26.1 s196

#### **Public presence at meetings**

**197(1)** Councils and council committees must conduct their meetings in public unless subsection (2) or (2.1) applies.

(2) Councils and council committees may close all or part of their meetings to the public if a matter to be discussed is within one of the exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*.

(2.1) A municipal planning commission, subdivision authority, development authority or subdivision and development appeal board established under Part 17 may deliberate and make its decisions in meetings closed to the public.

(3) When a meeting is closed to the public, no resolution or bylaw may be passed at the meeting, except a resolution to revert to a meeting held in public.

1994 cM-26.1 ss197,738;1995 c24 s23

#### **Right of public to be present**

**198** Everyone has a right to be present at council meetings and council committee meetings conducted in public unless the person chairing the meeting expels a person for improper conduct.

1994 cM-26.1 s198

**Meeting through electronic communications**

**199(1)** A council meeting or council committee meeting may be conducted by means of electronic or other communication facilities if

- (a) notice is given to the public of the meeting, including the way in which it is to be conducted,
- (b) the facilities enable the public to watch or listen to the meeting at a place specified in that notice and a designated officer is in attendance at that place, and
- (c) the facilities enable all the meeting's participants to watch or hear each other.

**(2)** Councillors participating in a meeting held by means of a communication facility are deemed to be present at the meeting.

1994 cM-26.1 s199

**Power to require taking of oath**

**200** A council or council committee may require a person appearing before it or making any claim or submission to it to do so under oath.

1994 cM-26.1 s200

## **Part 6 Municipal Organization and Administration**

**Council's principal role in municipal organization**

**201(1)** A council is responsible for

- (a) developing and evaluating the policies and programs of the municipality;
- (b) making sure that the powers, duties and functions of the municipality are appropriately carried out;
- (c) carrying out the powers, duties and functions expressly given to it under this or any other enactment.

**(2)** A council must not exercise a power or function or perform a duty that is by this or another enactment or bylaw specifically assigned to the chief administrative officer or a designated officer.

1994 cM-26.1 s201

**Exercise of certain powers and duties**

**202(1)** Where

- (a) this or any other enactment or bylaw requires or authorizes a municipality to do something, but does not specify who in the municipality may do it, or
- (b) the municipality wishes to exercise its natural person powers,

the thing may be done or the natural person powers may be exercised by council or by the chief administrative officer, unless council specifies otherwise.

(2) Only a council may pass bylaws.

1994 cM-26.1 s202

#### **Delegation by council**

**203(1)** A council may by bylaw delegate any of its powers, duties or functions under this or any other enactment or a bylaw to a council committee, the chief administrative officer or a designated officer, unless this or any other enactment or bylaw provides otherwise.

(2) A council may not delegate

- (a) its power or duty to pass bylaws,
- (b) its power to make, suspend or revoke the appointment of a person to the position of chief administrative officer,
- (c) its power to adopt budgets under Part 8,
- (d) its power with respect to taxes under section 347, and
- (e) a duty to decide appeals imposed on it by this or another enactment or bylaw, whether generally or on a case by case basis, unless the delegation is to a council committee and authorized by bylaw.

(3) The council when delegating a matter to a council committee, the chief administrative officer or a designated officer may authorize the committee or officer to further delegate the matter.

1994 cM-26.1 s203

#### **Municipal office**

**204** A council must name a place as its municipal office.

1994 cM-26.1 s204

#### **Establishment of chief administrative officer**

**205(1)** Every council must establish by bylaw a position of chief administrative officer.

- (2) Every council must appoint one or more persons to carry out the powers, duties and functions of the position of chief administrative officer.
- (3) If more than one person is appointed, the council must by bylaw determine how the powers, duties and functions of the position of chief administrative officer are to be carried out.
- (4) Council may give the position of chief administrative officer any title the council considers appropriate.

1994 cM-26.1 s205

**Performance evaluation**

**205.1** A council must provide the chief administrative officer with an annual written performance evaluation of the results the chief administrative officer has achieved with respect to fulfilling the chief administrative officer's responsibilities under section 207.

1998 c24 s9

**Appointment, suspension and revocation**

**206(1)** The appointment of a person to the position of chief administrative officer may be made, suspended or revoked only if the majority of the whole council vote to do so.

(2) The appointment of a person to the position of chief administrative officer may not be revoked or suspended unless the council notifies the officer, in accordance with subsection (3), that it is proposing to revoke or suspend the appointment and provides the officer with its reasons.

(3) The notification and reasons must be in writing and be served personally on the officer or sent by regular mail to the last known address of the officer.

(4) If requested by the officer, council must give the officer or the officer's representative a reasonable opportunity to be heard before council.

(5) A chief administrative officer whose appointment is revoked without cause is, subject to any written agreement between council and the officer, entitled to reasonable notice or to compensation instead of reasonable notice.

(6) A chief administrative officer whose appointment is revoked with cause is, subject to any written agreement between council and the officer, not entitled to reasonable notice or to compensation instead of reasonable notice.

1994 cM-26.1 s206;1995 c24 s24

**Chief administrative officer's responsibilities**

**207** The chief administrative officer



- (a) is the administrative head of the municipality;
- (b) ensures that the policies and programs of the municipality are implemented;
- (c) advises and informs the council on the operation and affairs of the municipality;
- (d) performs the duties and functions and exercises the powers assigned to a chief administrative officer by this and other enactments or assigned by council.

1994 cM-26.1 s207

**Performance of major administrative duties****208(1)** The chief administrative officer must ensure that

- (a) all minutes of council meetings are recorded in the English language, without note or comment;
- (b) the names of the councillors present at council meetings are recorded;
- (c) the minutes of each council meeting are given to council for adoption at a subsequent council meeting;
- (d) the bylaws and minutes of council meetings and all other records and documents of the municipality are kept safe;
- (e) the Minister is sent a list of the councillors and any other information the Minister requires within 5 days after the term of the councillors begins;
- (f) the corporate seal, if any, is kept in the custody of the chief administrative officer;
- (g) the revenues of the municipality are collected and controlled and receipts are issued in the manner directed by council;
- (h) all money belonging to or held by the municipality is deposited in a bank, credit union, loan corporation, treasury branch or trust corporation designated by council;
- (i) the accounts for authorized expenditures referred to in section 248 are paid;
- (j) accurate records and accounts are kept of the financial affairs of the municipality, including the things on which a municipality's debt limit is based and the things included in the definition of debt for that municipality;

- (k) the actual revenues and expenditures of the municipality compared with the estimates in the operating or capital budget approved by council are reported to council as often as council directs;
- (l) money invested by the municipality is invested in accordance with section 250;
- (m) assessments, assessment rolls and tax rolls for the purposes of Parts 9 and 10 are prepared;
- (n) public auctions held to recover taxes are carried out in accordance with Part 10;
- (o) the council is advised in writing of its legislative responsibilities under this Act.

**(2)** Subsection (1)(a) to (d) and (o) apply to the chief administrative officer in respect of council committees that are carrying out powers, duties or functions delegated to them by the council.

1994 cM-26.1 s208;1998 c24 s10

#### **Delegation by chief administrative officer**

**209** A chief administrative officer may delegate any of the chief administrative officer's powers, duties or functions under this or any other enactment or bylaw to a designated officer or an employee of the municipality.

1994 cM-26.1 s209

#### **Designated officers**

**210(1)** A council may by bylaw establish one or more positions to carry out the powers, duties and functions of a designated officer under this or any other enactment or bylaw.

**(2)** Council may give a position established under subsection (1) any title the council considers appropriate.

**(3)** The bylaw must include which of the powers, duties and functions referred to in subsection (1) are to be exercised by each position.

**(4)** Unless otherwise provided by bylaw, all designated officers are subject to the supervision of and accountable to the chief administrative officer.

**(5)** A chief administrative officer may exercise all of the powers, duties and functions of a designated officer under this or any other enactment or bylaw if

- (a) no position of designated officer has been established by council,
- (b) the position of designated officer is vacant, or
- (c) this or any other enactment or bylaw refers to a designated officer and the power, duty, function or other thing relating to the designated officer has not been assigned to any designated officer by council.

1994 cM-26.1 s210

**Revocation**

**211(1)** A municipality may revoke with or without cause the appointment of a person to the position of a designated officer.

**(2)** A designated officer whose appointment is revoked without cause is, subject to any written agreement between the municipality and the officer, entitled to reasonable notice or to compensation instead of reasonable notice.

**(3)** A designated officer whose appointment is revoked with cause is, subject to any written agreement between the municipality and the officer, not entitled to reasonable notice or to compensation instead of reasonable notice.

1994 cM-26.1 s211;1995 c24 s25

**Delegation by designated officer**

**212** A designated officer may delegate any of the officer's powers, duties or functions under this or any other enactment or bylaw to an employee of the municipality.

1994 cM-26.1 s212

**Fidelity bond**

**212.1(1)** Starting with the 1998 financial year, the council of each municipality must annually obtain a fidelity bond, or equivalent insurance, in an amount the council considers appropriate.

- (2)** The fidelity bond or equivalent insurance must cover
- (a) the chief administrative officer of the municipality,
  - (b) the designated officers of the municipality, and
  - (c) other employees of the municipality

while carrying out duties relating to any money or security belonging to or held by the municipality.

1997 c19 s3

**Signing or authorization of municipal documents**

**213(1)** Minutes of council meetings must be signed by

- (a) the person presiding at the meeting, and
  - (b) a designated officer.
- (2) When council has delegated a power, duty or function to a council committee, the minutes of a council committee meeting that deal with the power, duty or function must be signed by
- (a) the person presiding at the meeting, and
  - (b) a designated officer.
- (3) Bylaws must be signed by
- (a) the chief elected official, and
  - (b) a designated officer.
- (4) Agreements and cheques and other negotiable instruments must be signed or authorized
- (a) by the chief elected official or by another person authorized by council to sign them, and
  - (b) by a designated officer,
- or by a designated officer acting alone if so authorized by council.
- (5) A signature may be printed, lithographed or otherwise reproduced if so authorized by council.

1994 cM-26.1 s213

**Destruction of records**

- 214(1)** A council may authorize the destruction of the original bylaws and minutes of council meetings if the originals have been recorded on microfiche or on another system that will enable copies of the originals to be made.
- (2) A council may pass a bylaw respecting the destruction of other records and documents of the municipality.
- (3) A bylaw under subsection (2) must provide that if an individual's personal information will be used by the municipality to make a decision that directly affects the individual, the municipality must retain the personal information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it.

1994 cM-26.1 s214

**Prohibition of certain agreements with employees**

- 215(1)** An agreement made on or after January 1, 1995 between a municipality and an employee of a municipality in which the

municipality is to provide a service or commodity to the employee is void.

(2) This section does not apply to an agreement

- (a) in which the municipality provides a service or commodity that the municipality supplies to the public generally, or
- (b) respecting the employee's employment.

1994 cM-26.1 s215

## **Part 7 Public Participation**

**216** Repealed 1994 cM-26.1 s738.

### **What information must a municipality provide**

**217(1), (2)** Repealed 1994 cM-26.1 s738.

(3) Despite Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*, the chief administrative officer must provide information on the salaries of councillors, the chief administrative officer and designated officers of the municipality.

(4), (5) Repealed 1994 cM-26.1 s738.

1994 cM-26.1 ss217,738

**218** Repealed 1994 cM-26.1 s738.

## **Petitions**

### **Rules for petitions**

**219** Sections 220 to 226 apply to all petitions to a council and the Minister under this Act, any other enactment or bylaw except to the extent that they are modified by this Act or any other enactment.

1994 cM-26.1 s219

### **CAO duties**

**220** When the Minister receives a petition, the Minister must designate a person to carry out the duties of a chief administrative officer with respect to the petition.

1994 cM-26.1 s220

### **Petition sufficiency requirements**

**221** A petition is sufficient if it meets the requirements of sections 222 to 226.

1994 cM-26.1 s221

**Who can petition**

**222** Unless otherwise provided in this or any other enactment, only electors of a municipality are eligible to be petitioners.

1994 cM-26.1 s222

**Number of petitioners**

**223(1)** A petition must be signed by the required number of petitioners.

**(2)** If requirements for the minimum number of petitioners are not set out under other provisions of this or any other enactment then, to be sufficient, the petition must be signed,

- (a) in the case of a municipality other than a summer village, by electors of the municipality equal in number to at least 10% of the population, and
- (b) in the case of a summer village, by 10% of the electors of the summer village.

1994 cM-26.1 s223

**Other requirements for a petition**

**224(1)** A petition must consist of one or more pages, each of which must contain an identical statement of the purpose of the petition.

**(2)** The petition must include, for each petitioner,

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the petitioner's signature,
- (c) the street address of the petitioner or the legal description of the land on which the petitioner lives, and
- (d) the date on which the petitioner signs the petition.

**(3)** Each signature must be witnessed by an adult person who must

- (a) sign opposite the signature of the petitioner, and
- (b) take an affidavit that to the best of the person's knowledge the signatures witnessed are those of persons entitled to sign the petition.

**(4)** The petition must have attached to it a signed statement of a person stating that

- (a) the person is the representative of the petitioners, and

- (b) the municipality may direct any inquiries about the petition to the representative.

1994 cM-26.1 s224

**Counting petitioners**

**225(1)** A petition must be filed with the chief administrative officer and the chief administrative officer is responsible for determining if the petition is sufficient.

(2) No name may be added to or removed from a petition after it has been filed with the chief administrative officer.

(3) In counting the number of petitioners on a petition there must be excluded the name of a person

- (a) whose signature is not witnessed,
- (b) whose signature appears on a page of the petition that does not have the same purpose statement that is contained on all the other pages of the petition,
- (c) whose printed name is not included or is incorrect,
- (d) whose street address or legal description of land is not included or is incorrect,
- (e) if the date when the person signed the petition is not stated,
- (f) when a petition is restricted to certain persons,
  - (i) who is not one of those persons, or
  - (ii) whose qualification as one of those persons is not, or is incorrectly, described or set out,

or

- (g) who signed the petition more than 60 days before the date on which the petition was filed with the chief administrative officer.

(4) If 5000 or more petitioners are necessary to make a petition sufficient, a chief administrative officer may use a random statistical sampling method with a 95% confidence level to determine the sufficiency of the petition, instead of counting and checking each petitioner.

1994 cM-26.1 s225

**Report on sufficiency of petition**

**226(1)** Within 30 days after the date on which a petition is filed, the chief administrative officer must make a declaration to the

council or the Minister on whether the petition is sufficient or insufficient.

(2) Repealed 1995 c24 s26.

(3) If a petition is not sufficient, the council or the Minister is not required to take any notice of it.

1994 cM-26.1 s226;1995 c24 s26

### Meetings with the Public

#### Advertising

**227** If council calls a meeting with the public, notice of it must be advertised and everyone is entitled to attend it.

1994 cM-26.1 s227

#### Improper conduct

**228** The person chairing a meeting with the public may expel a person from the meeting for improper conduct.

1994 cM-26.1 s228

#### Petition for meeting

**229** If a council receives a sufficient petition requesting that council call a meeting with the public, the council must call a meeting with the public to discuss the matters stated in the petition and the meeting must be held no later than 30 days after the chief administrative officer declares the petition to be sufficient.

1994 cM-26.1 s229;1995 c24 s27

### Public Hearings

#### When to hold public hearing

**230(1)** When this or another enactment requires council to hold a public hearing on a proposed bylaw or resolution, the public hearing must be held, unless another enactment specifies otherwise,

- (a) before second reading of the bylaw, or
- (b) before council votes on the resolution.

(2) If a public hearing is held on a proposed bylaw or resolution, council must conduct the public hearing during a regular or special council meeting.

(3) A council may by bylaw establish procedures for public hearings.

(4) In the public hearing, council

- (a) must hear any person, group of persons, or person representing them, who claims to be affected by the



proposed bylaw or resolution and who has complied with the procedures outlined by the council, and

- (b) may hear any other person who wishes to make representations and whom the council agrees to hear.

(5) After considering the representations made to it about a proposed bylaw or resolution at a public hearing and after considering any other matter it considers appropriate, the council may

- (a) pass the bylaw or resolution,
- (b) make any amendment to the bylaw or resolution it considers necessary and proceed to pass it without further advertisement or hearing, or
- (c) defeat the bylaw or resolution.

(6) The minutes of the council meeting during which a public hearing is held must record the public hearing to the extent directed by the council.

1994 cM-26.1 s230

### **Petitions for Vote of the Electors - Advertised Bylaws and Resolutions**

#### **Petition for vote on advertised bylaws and resolutions**

**231(1)** Except for a bylaw under section 22 or a bylaw or resolution under Part 17, after a proposed bylaw or resolution that is required to be advertised under this or another enactment has been advertised, the electors may submit a petition for a vote of the electors to determine whether the proposed bylaw or resolution should be passed.

(2) A separate petition must be filed with respect to each advertised bylaw or resolution even if a council advertises 2 or more bylaws or resolutions in a single advertisement.

(3) A petition under this section for a vote of the electors on a proposed bylaw required to be advertised by Part 8 is not sufficient unless it is filed with the chief administrative officer within 15 days after the last date on which the proposed bylaw or resolution is advertised.

(4) A petition under this section for a vote of the electors on a proposed bylaw or resolution required to be advertised by another Part of this Act or another enactment is not sufficient unless it is filed with the chief administrative officer within 60 days after the last date on which the proposed bylaw is advertised.

- (5) If a sufficient petition is received under this section, the council must either
- (a) decide not to proceed with the proposed bylaw or resolution, or
  - (b) decide to proceed with the proposed bylaw or resolution and submit the bylaw or resolution to a vote of the electors within 90 days after the chief administrative officer declares the petition to be sufficient.
- (6) If a vote of the electors approves the proposed bylaw or resolution, the council must proceed to pass it.
- (7) If a vote of the electors does not approve the proposed bylaw, the council must not give the bylaw any further readings and any previous readings are rescinded.
- (8) If a vote of the electors does not approve the proposed resolution, the motion for the resolution is rescinded.
- (9) If a sufficient petition is not received, the council may pass the proposed bylaw or resolution.

1994 cM-26.1 s231;1995 c24 s28;1998 c24 s11

### **Petitions for Vote of the Electors - New Bylaws**

#### **Petition for bylaw**

**232(1)** Electors may petition for

- (a) a new bylaw, or
- (b) a bylaw to amend or repeal a bylaw or resolution

on any matter within the jurisdiction of the council under this or another enactment.

(2) A petition requesting a new bylaw under Part 8, 9, 10 or 17 or an amendment or repeal of a bylaw or resolution made under Part 8, 9, 10 or 17 has no effect.

1994 cM-26.1 s232;1995 c24 s29;1996 c30 s12

#### **Council's duty on receiving certain petition**

**233(1)** Except to the extent provided for in section 234, this section does not apply to a petition under section 232 requesting an amendment or repeal of a bylaw that council was required to pass as a result of a vote of the electors.

(2) A petition under section 232 requesting an amendment or repeal of a bylaw or resolution is not sufficient unless it is filed

with the chief administrative officer within 60 days after the day on which that bylaw or resolution was passed.

**(3)** Within 30 days after the day on which the chief administrative officer declares a petition submitted under section 232 to be sufficient, the council must give first reading to a bylaw dealing with the subject-matter of the petition and any other related matters the council considers necessary.

**(4)** If the bylaw is not required to be advertised under this or another enactment, the council must

- (a) within 30 days after the bylaw receiving first reading pass the bylaw, or
- (b) fix a date that is within 90 days after the bylaw receives first reading for a vote of the electors on the bylaw.

**(5)** If the bylaw is required to be advertised under this or another enactment, the council must

- (a) ensure that the bylaw is advertised, or
- (b) fix a date that is within 90 days after the bylaw receives first reading for a vote of the electors on the bylaw.

**(6)** If the bylaw is advertised and a sufficient petition is not received under section 231, the council must

- (a) pass the bylaw within 30 days after the relevant time period set out in section 231(3) or (4), or
- (b) fix a date that is within 90 days after the relevant time period set out in section 231(3) or (4) for a vote of the electors on the bylaw.

**(7)** If the bylaw is advertised and a sufficient petition is received under section 231, the council must either

- (a) decide not to proceed with the proposed bylaw, or
- (b) decide to proceed with the proposed bylaw and submit the bylaw to a vote of the electors within 90 days after the chief administrative officer declares the petition to be sufficient.

1994 cM-26.1 s233;1995 c24 s30

#### **Petitions respecting public vote bylaws**

**234(1)** In this section, “public vote bylaw” means a bylaw that council was required to pass as a result of a vote of the electors.

(2) A petition under section 232 requesting an amendment or repeal of a public vote bylaw has no effect unless one year has passed from the date that the public vote bylaw was passed.

(3) If a council receives a sufficient petition under section 232 requesting an amendment or repeal of a public vote bylaw and only one to 3 years have passed from the date that the public vote bylaw was passed, the council must, within 30 days after the day on which the chief administrative officer declares the petition to be sufficient,

- (a) give first reading to a bylaw dealing with the subject-matter of the petition and any other related matters the council considers necessary, and
- (b) fix a date that is within 90 days after the bylaw receives first reading for a vote of the electors on the bylaw.

(4) If council receives a sufficient petition under section 232 requesting an amendment or repeal of a public vote bylaw and more than 3 years but less than 10 years have passed from the date that the public vote bylaw was passed,

- (a) the amendment or repeal must be treated as a bylaw that is required to be advertised, and
- (b) section 233(3), (5), (6) and (7) apply.

(5) If council receives a sufficient petition under section 232 requesting an amendment or repeal of a public vote bylaw and 10 or more years have passed from the date that the public vote bylaw was passed, section 233(3) to (7) apply.

1994 cM-26.1 s234;1995 c24 s31

#### **Result of a vote on a question**

**235(1)** If a majority of electors voting on a bylaw under section 233 or 234 vote in favour of a proposed bylaw, the bylaw as submitted to the vote must be passed by council within 30 days after the date of the vote, without any alteration affecting its substance.

(2) If a majority of electors voting oppose the proposed bylaw, council must not give the bylaw any further readings and all previous readings are rescinded.

1994 cM-26.1 s235

### Vote of the Electors - General Provisions

#### Electors to vote on a question

**236(1)** A council may provide for the submission of a question to be voted on by the electors on any matter over which the municipality has jurisdiction.

**(2)** A vote of the electors under subsection (1) does not bind council.

1994 cM-26.1 s236

#### Local Authorities Election Act

**237** A vote of the electors under this Part must be conducted in accordance with the *Local Authorities Election Act*.

1994 cM-26.1 s237

#### Delaying votes

**238(1)** If a petition for a vote of the electors is filed with the chief administrative officer within 12 months before a general election and a vote of electors is to be conducted because of the petition, the council may direct that the vote be conducted at the general election.

**(2)** A vote under subsection (1) must be conducted on the date of the general election whether or not a general election is conducted.

1994 cM-26.1 s238;1995 c24 s32

#### One year moratorium on similar subject-matter

**239** If a vote of the electors is conducted on a bylaw or resolution, the council may refuse to receive any further petition on the same or a similar subject filed within one year after the date of the vote.

1994 cM-26.1 s239

#### Amendments or repeal of bylaws or resolutions voted on by electors

**240(1)** A bylaw or resolution that council was required to pass as a result of a vote of the electors may be amended or repealed only if

- (a) a vote of the electors is held on the proposed amendment or repeal and the majority of the electors voting vote in favour of the proposed amendment or repeal,
- (b) three years have passed from the date that the bylaw or resolution was passed and the proposed amendment or repeal is advertised, or
- (c) ten years have passed from the date that the bylaw or resolution was passed.

(2) A bylaw or resolution that council was required to pass as a result of a vote of the electors may be amended if the amendment does not affect the substance of the bylaw or resolution.

1994 cM-26.1 s240

## Part 8 Financial Administration

### Definitions

**241** In this Part,

- (a) “borrowing” means the borrowing of money and includes
  - (i) borrowing to refinance, redeem or restructure existing debt,
  - (ii) a lease of capital property with a fixed term beyond 5 years or a fixed term of 5 years or less but with a right of renewal that would, if exercised, extend the original term beyond 5 years, and
  - (iii) an agreement to purchase capital property that creates an interest in the capital property to secure payment of the capital property’s purchase price if payment of the purchase price under the agreement exceeds 5 years;
- (b) “borrowing bylaw” means a bylaw referred to in section 251;
- (c) “capital property” means property that
  - (i) is used in the production or supply of goods and services or is used for a municipal purpose,
  - (ii) has a useful life extending beyond 12 months and is intended to be used on a continuing basis, and
  - (iii) is not intended for sale in the ordinary course of operations;
- (d) “controlled corporation” means a corporation controlled by a municipality;
- (e) “debt limit” means the debt limit for a municipality determined in accordance with the regulations under section 271;
- (f) “non-profit organization” means

- (i) a society, credit union or co-operative established under a law of Canada or Alberta,
  - (ii) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or
  - (iii) any other entity established under a law of Canada or Alberta for a purpose other than to make a profit.
- 1994 cM-26.1 s241;1996 c30 s13;1998 c24 s12

## Budgets

### Adoption of operating budget

**242(1)** Each council must adopt an operating budget for each calendar year.

**(2)** A council may adopt an interim operating budget for part of a calendar year.

**(3)** An interim operating budget for a part of a calendar year ceases to have any effect when the operating budget for that calendar year is adopted.

1994 cM-26.1 s242

### Contents of operating budget

**243(1)** An operating budget must include the estimated amount of each of the following expenditures and transfers:

- (a) the amount needed to provide for the council's policies and programs;
- (b) the amount needed to pay the debt obligations in respect of borrowings made to acquire, construct, remove or improve capital property;
- (c) the amount needed to meet the requisitions or other amounts that the municipality is required to pay under an enactment;
- (d) if necessary, the amount needed to provide for a depreciation or depletion allowance, or both, for its municipal public utilities as defined in section 28;
- (e) the amount to be transferred to reserves;
- (f) the amount to be transferred to the capital budget;
- (g) the amount needed to recover any deficiency as required under section 244.

(2) An operating budget must include the estimated amount of each of the following sources of revenue and transfers:

- (a) property tax;
- (b) business tax;
- (c) business revitalization zone tax;
- (c.1) community revitalization levy;
- (d) special tax;
- (e) well drilling equipment tax;
- (f) local improvement tax;
- (f.1) community aggregate payment levy;
- (g) grants;
- (h) transfers from the municipality's accumulated surplus funds or reserves;
- (i) any other source.

(3) The estimated revenue and transfers under subsection (2) must be at least sufficient to pay the estimated expenditures and transfers under subsection (1).

(4) The Minister may make regulations respecting budgets and that define terms used in this section that are not defined in section 241.

RSA 2000 cM-26 s243;2005 c14 s3

### Deficiency

**244(1)** If the total revenues and transfers of a municipality over a 3-year period are less than the total expenditures and transfers of the municipality for the same period, the operating budget for the municipality for the year following the 3-year period must include an expenditure to cover the deficiency.

(2) If a municipality has a deficiency referred to in subsection (1), the municipality may, with the Minister's approval, spread the expenditures to cover the deficiency over more than one calendar year.

(3) If the Minister considers it to be necessary, the Minister may establish the budget for a municipality that has a deficiency referred to in subsection (1) for a calendar year and the budget

- (a) is for all purposes the municipality's budget for that calendar year, and



- (b) may not be amended or replaced by council.

1994 cM-26.1 s244;1995 c24 s33

#### **Adoption of capital budget**

**245** Each council must adopt a capital budget for each calendar year.

1994 cM-26.1 s245

#### **Contents of capital budget**

**246** A capital budget must include the estimated amount for the following:

- (a) the amount needed to acquire, construct, remove or improve capital property;
- (b) the anticipated sources and amounts of money to pay the costs referred to in clause (a);
- (c) the amount to be transferred from the operating budget.

1994 cM-26.1 s246

#### **Tax bylaws**

**247** No municipality may pass a property tax bylaw or business tax rate bylaw in respect of a year unless the operating and capital budget for that year have been adopted by council or established by the Minister under section 244.

1994 cM-26.1 s247

#### **Expenditure of money**

**248(1)** A municipality may only make an expenditure that is

- (a) included in an operating budget, interim operating budget or capital budget or otherwise authorized by the council,
- (b) for an emergency, or
- (c) legally required to be paid.

**(2)** Each council must establish procedures to authorize and verify expenditures that are not included in a budget.

**(3)** If the Minister establishes a budget for a municipality under section 244, the municipality may not make an expenditure that is not included in the budget unless the expenditure is

- (a) authorized by the Minister,
- (b) for an emergency, or
- (c) legally required to be paid.

1994 cM-26.1 s248

**Civil liability of councillors****249(1)** A councillor who

- (a) makes an expenditure that is not authorized under section 248,
- (b) votes to spend money that has been obtained under a borrowing on something that is not within the purpose for which the money was borrowed, or
- (c) votes to spend money that has been obtained under a grant on something that is not within the purpose for which the grant was given

is liable to the municipality for the expenditure or amount spent.

**(2)** A councillor is not liable under subsection (1)(b) if spending the money is allowed under section 253(2).

**(3)** If more than one councillor is liable to the municipality under this section in respect of a particular expenditure or vote, the councillors are jointly and severally liable to the municipality for the expenditure or amount spent.

**(4)** The liability may be enforced by action by

- (a) the municipality,
- (b) an elector or taxpayer of the municipality, or
- (c) a person who holds a security under a borrowing made by the municipality.

1994 cM-26.1 s249

**Investments****Authorized investments**

**250(1)** In this section, “securities” includes bonds, debentures, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real estate or leaseholds and rights or interests in respect of a security.

**(2)** A municipality may only invest its money in the following:

- (a) securities issued or guaranteed by
  - (i) the Crown in right of Canada or an agent of the Crown, or
  - (ii) the Crown in right of a province or territory or an agent of a province or territory;

- (b) securities of a municipality, school division, school district, hospital district, health region under the *Regional Health Authorities Act* or regional services commission in Alberta;
- (c) securities that are issued or guaranteed by a bank, treasury branch, credit union or trust corporation;
- (d) units in pooled funds of all or any of the investments described in clauses (a) to (c);
- (e) shares of a corporation incorporated or continued under the *Canada Business Corporations Act* (Canada) or incorporated, continued or registered under the *Business Corporations Act* if the investment is approved by the Minister.

(3) The approval of the Minister under subsection (2)(e) may contain conditions and a municipality may not acquire shares of a corporation under subsection (2)(e) if the acquisition would allow the municipality to control the corporation.

(4) In addition to the investments referred to in subsection (2), the Minister may by regulation allow one or more municipalities to invest their money in other investments described in the regulation.

(5) Nothing in this section prevents a municipality from acquiring a share or membership in a non-profit organization.

1994 cM-26.1 s250;1994 cR-9.07 s25(24)

## Borrowing

### Borrowing bylaw

**251(1)** A municipality may only make a borrowing if the borrowing is authorized by a borrowing bylaw.

(2) A borrowing bylaw must set out

- (a) the amount of money to be borrowed and, in general terms, the purpose for which the money is borrowed;
- (b) the maximum rate of interest, the term and the terms of repayment of the borrowing;
- (c) the source or sources of money to be used to pay the principal and interest owing under the borrowing.

(3) A borrowing bylaw must be advertised.

1994 cM-26.1 s251

**Debt limit**

**252** No municipality may make a borrowing if the borrowing will cause the municipality to exceed its debt limit, unless the borrowing is approved by the Minister.

1994 cM-26.1 s252

**Use of borrowed money**

**253(1)** Money obtained by a municipality under a borrowing must be used for the purpose for which it is borrowed.

**(2)** Money obtained by a municipality under a borrowing for the purpose of financing a capital property may be used for an operating purpose if the amount spent is available when it is needed for the capital property.

1994 cM-26.1 s253

**Capital property**

**254** No municipality may acquire, remove or start the construction or improvement of a capital property that is to be financed in whole or in part through a borrowing unless the borrowing bylaw that authorizes the borrowing is passed.

1994 cM-26.1 s254

**Exemption from borrowing conditions**

**255(1)** The Minister may, in respect of a particular borrowing, exempt a municipality from any requirement in sections 256 to 263.

**(2)** The *Regulations Act* does not apply to an exemption made under this section.

1994 cM-26.1 s255

**Operating expenditures**

**256(1)** This section applies to a borrowing made for the purpose of financing operating expenditures.

**(2)** The amount to be borrowed, together with the unpaid principal of other borrowings made for the purpose of financing operating expenditures, must not exceed the amount the municipality estimates will be raised in taxes in the year the borrowing is made.

**(3)** A borrowing bylaw that authorizes the borrowing does not have to be advertised if the term of the borrowing does not exceed 3 years.

1994 cM-26.1 s256

**Capital property - short-term borrowing**

**257(1)** This section applies to a borrowing made for the purpose of financing a capital property when the term of the borrowing is 5 years or less.

(2) The expenditure for the capital property must be included in a budget.

(3) Repealed 1998 c24 s13.

(4) A borrowing bylaw that authorizes the borrowing does not have to be advertised.

1994 cM-26.1 s257;1996 c30 s14;1998 c24 s13

#### **Capital property - long-term borrowing**

**258(1)** This section applies to a borrowing made for the purpose of financing a capital property when the term of the borrowing exceeds 5 years.

(2) This section does not apply to a borrowing referred to in section 263.

(3) The expenditure for the capital property must be included in a budget.

(4) The term of the borrowing must not exceed the probable lifetime of the capital property.

(5) If

- (a) a borrowing bylaw that authorizes the borrowing has been passed,
- (b) the money to be borrowed is insufficient because the cost of the capital property has increased, and
- (c) the increased cost does not exceed 15% of the original cost of the capital property,

the borrowing bylaw that authorizes the borrowing of the increased cost does not have to be advertised.

1994 cM-26.1 s258;1996 c30 s15

#### **Capital property - interim financing**

**259(1)** This section applies to a borrowing made for the purpose of temporarily financing a capital property for which a borrowing bylaw has been passed under section 258.

(2) The term of the borrowing must not exceed 5 years.

(3) The amount borrowed must not exceed the

- (a) amount of the expenditures in the budget for that and previous calendar years to acquire, construct or improve the capital property,

minus

(b) any money received for the capital property from any other source, including previous borrowings under this Part.

(4) A borrowing bylaw that authorizes the borrowing referred to in subsection (1) does not have to be advertised.

(5) Section 257 does not apply to a borrowing referred to in subsection (1).

1994 cM-26.1 s259;1996 c30 s16

### Special works

**260** If the purpose of a borrowing is to finance the acquisition, construction, removal or improvement of capital property ordered under an enactment, the borrowing bylaw for that borrowing does not have to be advertised.

1994 cM-26.1 s260

### Refinancing

**261** If the purpose of a proposed borrowing is to refinance, redeem or restructure the unpaid principal of one or more existing borrowings and the amount and term of the proposed borrowing do not exceed the unpaid principal of the existing borrowings and the longest remaining term of the existing borrowings, the borrowing bylaw for the proposed borrowing does not have to be advertised.

1994 cM-26.1 s261

### Services or activities that are funded by agreement

**262(1)** This section applies to a borrowing made for the purpose of financing a service or activity that the municipality will provide under an agreement

(a) between the municipality and another local authority or the Crown in right of Alberta or Canada or an agent of either Crown, and

(b) that provides that the municipality is to receive payments for providing the service or activity.

(2) The amount borrowed must not exceed the amount that will be paid to the municipality under the agreement.

(3) The term of the borrowing must not continue beyond the date on which the final payment under the agreement is received by the municipality.

(4) A borrowing bylaw that authorizes the borrowing does not have to be advertised.

(5) Payments received by the municipality under the agreement must be applied first to reducing the amount borrowed.

(6) Sections 256 to 259 do not apply to a borrowing referred to in subsection (1).

1994 cM-26.1 s262

#### **Local improvements**

**263(1)** This section applies to a borrowing made for the purpose of financing the cost of a local improvement to be funded in whole or in part by a local improvement tax.

(2) The borrowing bylaw that authorizes the borrowing does not have to be advertised if the amount to be financed by the local improvement tax to pay for the local improvement is equal to or greater than the amount that the municipality will contribute to pay for the local improvement other than through the local improvement tax.

(3) For the purpose of calculating the amount that the municipality will contribute referred to in subsection (2), the amount does not include any financial assistance the municipality receives for the local improvement from a government, government agency, corporation or individual.

1994 cM-26.1 s263

### **Loans and Guarantees**

#### **Purpose of loans and guarantees**

**264(1)** A municipality may only lend money or guarantee the repayment of a loan if

- (a) the loan or guarantee is made under subsection (2) or (3),
- (b) the loan is made to one of its controlled corporations, or
- (c) the guarantee is made in respect of a loan between a lender and one of its controlled corporations.

(2) A municipality may

- (a) lend money to a non-profit organization, or
- (b) guarantee the repayment of a loan between a lender and a non-profit organization

if the council considers that the money loaned or money obtained under the loan that is guaranteed will be used for a purpose that will benefit the municipality.

(3) A municipality that intends to purchase gas from and become a shareholder of the designated seller within the meaning of section 30(1) of the *Gas Distribution Act*, SA 1994 cG-1.5 as it read on

June 30, 1998, may make a loan to the designated seller as part of the capitalization of the designated seller by its shareholders.

1994 cM-26.1 s264;1998 c26 s13

#### **Loan bylaws**

**265(1)** A municipality may only lend money to a non-profit organization, one of its controlled corporations or the designated seller within the meaning of section 30(1) of the *Gas Distribution Act*, SA 1994 cG-1.5 as it read on June 30, 1998, if the loan is authorized by bylaw.

**(2)** The bylaw authorizing the loan must set out

- (a) the amount of money to be loaned and, in general terms, the purpose for which the money that is loaned is to be used;
- (b) the minimum rate of interest, the term and the terms of repayment of the loan;
- (c) the source or sources of the money to be loaned.

**(3)** The bylaw that authorizes the loan must be advertised.

1994 cM-26.1 s265;1998 c26 s13

#### **Guarantee bylaw**

**266(1)** A municipality may only guarantee the repayment of a loan between a lender and a non-profit organization or one of its controlled corporations if the guarantee is authorized by bylaw.

**(2)** The bylaw authorizing the guarantee must set out

- (a) the amount of money to be borrowed under the loan to be guaranteed and, in general terms, the purpose for which the money is borrowed;
- (b) the rate of interest under the loan or how the rate of interest is calculated, the term and the terms of repayment of the loan;
- (c) the source or sources of the money to be used to pay the principal and interest owing under the loan if the municipality is required to do so under the guarantee.

**(3)** The bylaw that authorizes the guarantee must be advertised.

1994 cM-26.1 s266

**267** Repealed 1998 c24 s14.



**Debt limit**

**268** No municipality may lend money or guarantee the repayment of a loan referred to in section 264 if making the loan or guarantee will cause the municipality to exceed its debt limit, unless the loan or guarantee is approved by the Minister.

1994 cM-26.1 s268

**General Matters****Financial year**

**269** The financial year of a municipality is the calendar year.

1994 cM-26.1 s269

**Municipal accounts**

**270** Only a designated officer or a person authorized by bylaw may open or close the accounts that hold the money of a municipality.

1994 cM-26.1 s270

**Regulations**

**271(1)** The Minister may make regulations

- (a) respecting the financial administration of specialized municipalities;
- (b) establishing limits and restrictions on a municipality's power to make grants;
- (c) respecting how a debt limit for a municipality is determined;
- (d) defining debt for the purposes of determining if a municipality has exceeded its debt limit and the definition may include anything related to a municipality's finances, including things relating to the finances of a controlled corporation;
- (e) exempting a municipality from the requirement of this Part respecting debt limits.

**(2)** The regulations may establish different methods of determining debt limits and different definitions of debt for different municipalities.

1994 cM-26.1 s271

**Seal and signatures**

**272** After a legal instrument issued under a borrowing has been signed and sealed by the municipality, the signatures and seal may be reproduced and the reproduction has the same effect as if the signatures or seal had been personally signed or affixed.

1994 cM-26.1 s272

**Validity of borrowings, loans and guarantees**

**273(1)** A borrowing made by a municipality and a loan or guarantee of a loan made by a municipality under section 264 and any legal instrument issued under the borrowing, loan or guarantee is valid and binding on the municipality and is not open to question in any court if the borrowing is authorized by a borrowing bylaw or the loan or guarantee is authorized by bylaw.

**(2)** A borrowing bylaw or a bylaw authorizing a loan or guarantee is, for the purposes of this section, a valid bylaw if

- (a) no application has been made to the Court of Queen's Bench to have the bylaw declared invalid within 30 days after the bylaw has been passed, or
- (b) an application has been made to the Court of Queen's Bench to have the bylaw declared invalid within 30 days after the bylaw has been passed and, on the final disposition of the application and any appeal, the application is dismissed.

1994 cM-26.1 s273

**Application of money borrowed**

**274** A person lending money to a municipality under a borrowing does not have to verify that the money is applied to the purpose for which it is borrowed.

1994 cM-26.1 s274

**Civil liability of councillors**

**275(1)** When a municipality makes a borrowing, loan or guarantees the repayment of a loan that causes the municipality to exceed its debt limit, a councillor who voted for the bylaw authorizing the borrowing, loan or guarantee is liable to the municipality for the amount borrowed, loaned or guaranteed, unless the borrowing, loan or guarantee has been approved by the Minister.

**(2)** If subsection (1) applies to more than one councillor in respect of a bylaw, the councillors are jointly and severally liable to the municipality for the amount borrowed, loaned or guaranteed under the bylaw.

**(3)** The liability may be enforced by action by

- (a) the municipality,
- (b) an elector or taxpayer of the municipality, or
- (c) a person who holds a security under a borrowing made by the municipality.

1994 cM-26.1 s275

**Expense allowance**

**275.1(1)** In this section, “remuneration” includes salaries, indemnities, honorariums and allowances.

(2) One third of the remuneration paid in 1999 and later years by a municipality to a councillor is deemed to be an allowance for expenses that are incidental to the discharge of the councillor’s duties.

(3) Subsection (2) does not apply to a councillor’s remuneration paid in a year if there is in force during all or any part of that year a bylaw or resolution of council establishing that a portion other than 1/3 of the councillor’s remuneration is an allowance for expenses that are incidental to the discharge of the councillor’s duties.

1999 c32 s14

**Annual Financial Statements and Auditor’s Report****Annual financial statements**

**276(1)** Each municipality must prepare annual financial statements of the municipality for the immediately preceding year in accordance with

- (a) the generally accepted accounting principles for municipal governments recommended from time to time by the Canadian Institute of Chartered Accountants, and
- (b) any modification of the principles or any supplementary accounting standards or principles established by the Minister by regulation.

(2) The municipality’s financial statements must include

- (a) the municipality’s debt limit, and
- (b) the amount of the municipality’s debt as defined in the regulations under section 271.

(3) Each municipality must make its financial statements, or a summary of them, and the auditor’s report of the financial statements available to the public in the manner the council considers appropriate by May 1 of the year following the year for which the financial statements have been prepared.

1994 cM-26.1 s276

**Financial information return**

**277(1)** Each municipality must prepare a financial information return respecting the financial affairs of the municipality for the immediately preceding calendar year.

(2) The Minister may establish requirements respecting the financial information return, including requirements respecting the accounting principles and standards to be used in preparing the return.

1994 cM-26.1 s277;1995 c24 s34

#### **Returns and reports to Minister**

**278** Each municipality must submit

- (a) its financial information return and the auditor's report on the financial information return, and
- (b) its financial statements and the auditor's report on the financial statements

to the Minister by May 1 of the year following the year for which the financial information return and statements have been prepared.

1994 cM-26.1 s278

#### **Financial statements for controlled corporations**

**279** Each controlled corporation must prepare annual financial statements in accordance with

- (a) the requirements of the legislation under which the corporation was formed, and
- (b) if there are no requirements, the generally accepted accounting principles recommended from time to time by the Canadian Institute of Chartered Accountants.

1994 cM-26.1 s279

#### **Auditors**

**280(1)** Each council must appoint one or more auditors for the municipality.

(2) Each council must appoint one or more auditors for each of its controlled corporations if there is no statutory requirement for an audit of the accounts of the controlled corporation.

(3) A council may not appoint a councillor, an employee of the municipality or an employee of one of its controlled corporations to be an auditor.

(4) The council of the City of Edmonton or of the City of Calgary may, on the approval of the Minister, appoint by bylaw an employee of the municipality to be the auditor for the municipality if the person is a chartered accountant, certified management accountant or certified general accountant and reports directly to the council.

1994 cM-26.1 s280;1996 c30 s17

**Auditor's reports**

**281(1)** The auditor for the municipality must report to the council on the annual financial statements and financial information return of the municipality.

**(2)** The reports on the annual financial statements and financial information return must be in accordance with

- (a) the form and the reporting standards recommended from time to time by the Canadian Institute of Chartered Accountants, and
- (b) any modification of the form or standards or any supplementary form or standard established by the Minister by regulation.

**(3)** The auditor must separately report to the council any improper or unauthorized transaction or non-compliance with this or another enactment or a bylaw that is noted during the course of an audit.

**(4)** The council or the Minister may require any further examination and report from the auditor.

1994 cM-26.1 s281

**Auditor appointed by Minister**

**282(1)** The Minister may appoint one or more auditors to audit the books and accounts of a municipality if the Minister considers the audit to be needed or

- (a) on the request of the council,
- (b) on the request of not fewer than 1/3 of the councillors on the council, or
- (c) on receiving a sufficient petition from the electors of the municipality requesting the appointment of an auditor.

**(2)** The municipality is liable to the Minister for the costs of the audit as determined by the Minister.

**(3)** The auditor must submit the auditor's report to the Minister and to council.

1994 cM-26.1 s282

**Access to information by auditors**

**283(1)** An auditor appointed by the council or the Minister is at all reasonable times and for any purpose related to an audit entitled to access to

- (a) the records of the municipality, and

(b) data processing equipment owned or leased by the municipality.

(2) A councillor, chief administrative officer, designated officer, employee or agent of, or a consultant to, a municipality must give the auditor any information, reports or explanations the auditor considers necessary.

(3) An auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained.

1994 cM-26.1 s283

## **Part 9 Assessment of Property**

### **Interpretation provisions for Parts 9 to 12**

**284(1)** In this Part and Parts 10, 11 and 12,

- (a) “assessed person” means a person who is named on an assessment roll in accordance with section 304;
- (b) “assessed property” means property in respect of which an assessment has been prepared or adopted;
- (c) “assessment” means a value of property determined in accordance with this Part and the regulations;
- (d) “assessor” means a person who has the qualifications set out in the regulations and
  - (i) is designated by the Minister to carry out the duties and responsibilities of an assessor under this Act, or
  - (ii) is appointed by a municipality to the position of designated officer to carry out the duties and responsibilities of an assessor under this Act,and includes any person to whom those duties and responsibilities are delegated by the person referred to in subclause (i) or (ii);
- (e) “council” includes
  - (i) a collecting board that is authorized under section 180 of the *School Act* to impose and collect taxes in a district as defined in that Act, and
  - (ii) the Minister, in respect of an improvement district or special area;

- (f) “Crown” means the Crown in right of Alberta, and includes a Provincial agency as defined in the *Financial Administration Act* and an agent of the Crown in right of Alberta;
- (f.1) “designated manufactured home” means a manufactured home, mobile home, modular home or travel trailer;
- (g) “electric power system” means a system intended for or used in the generation, transmission, distribution or sale of electricity;
- (h) “farm building” has the meaning given to it in the regulations;
- (i) “farming operations” has the meaning given to it in the regulations;
- (j) “improvement” means
  - (i) a structure,
  - (ii) any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,
  - (iii) a designated manufactured home, and
  - (iv) machinery and equipment;
- (k) “linear property” means
  - (i) electric power systems, including structures, installations, materials, devices, fittings, apparatus, appliances and machinery and equipment, owned or operated by a person whose rates are controlled or set by the Alberta Utilities Commission or by a municipality or under the *Small Power Research and Development Act*, but not including land or buildings,
  - (i.1) street lighting systems, including structures, installations, fittings and equipment used to supply light, but not including land or buildings,
  - (ii) telecommunications systems, including
    - (A) cables, amplifiers, antennas and drop lines, and
    - (B) structures, installations, materials, devices, fittings, apparatus, appliances and machinery and equipment,

intended for or used in the communication systems of cable distribution undertakings and telecommunication carriers that are subject to the regulatory authority of the Canadian Radio-television and Telecommunications Commission or any successor of the Commission, but not including

- (C) cables, structures, amplifiers, antennas or drop lines installed in and owned by the owner of a building to which telecommunications services are being supplied, or
- (D) land or buildings,

and

(iii) pipelines, including

- (A) any continuous string of pipe, including loops, by-passes, cleanouts, distribution meters, distribution regulators, remote telemetry units, valves, fittings and improvements used for the protection of pipelines intended for or used in gathering, distributing or transporting gas, oil, coal, salt, brine, wood or any combination, product or by-product of any of them, whether the string of pipe is used or not,
- (B) any pipe for the conveyance or disposal of water, steam, salt water, glycol, gas or any other substance intended for or used in the production of gas or oil, or both,
- (C) any pipe in a well intended for or used in
  - (I) obtaining gas or oil, or both, or any other mineral,
  - (II) injecting or disposing of water, steam, salt water, glycol, gas or any other substance to an underground formation,
  - (III) supplying water for injection to an underground formation, or
  - (IV) monitoring or observing performance of a pool, aquifer or an oil sands deposit,
- (D) well head installations or other improvements located at a well site intended for or used for any of the purposes described in paragraph (C)



or for the protection of the well head installations,

- (E) the legal interest in the land that forms the site of wells used for any of the purposes described in paragraph (C) if it is by way of a lease, licence or permit from the Crown, and
- (E.1) the legal interest in any land other than that referred to in paragraph (E) that forms the site of wells used for any of the purposes described in paragraph (C), if the municipality in which the land is located has prepared assessments in accordance with this Part that are to be used for the purpose of taxation in 1996 or a subsequent year,

but not including

- (F) the inlet valve or outlet valve or any installations, materials, devices, fittings, apparatus, appliances, machinery or equipment between those valves in
  - (I) any processing, refining, manufacturing, marketing, transmission line pumping, heating, treating, separating or storage facilities, or
  - (II) a regulating or metering station,

or

(G) land or buildings;

- (l) “machinery and equipment” has the meaning given to it in the regulations;
- (m) “manufactured home” means any structure, whether ordinarily equipped with wheels or not, that is manufactured to meet or exceed the Canadian Standards Association standard CSA Z240 and that is used as a residence or for any other purpose;
- (n) “manufactured home community” means a parcel of land that
  - (i) is designated in the land use bylaw of a municipality as a manufactured home community, and
  - (ii) includes at least 3 designated manufactured home sites that are rented or available for rent;

- (n.1) “mobile home” means a structure that is designed to be towed or carried from place to place and that is used as a residence or for any other purpose, but that does not meet Canadian Standards Association standard CSA Z240;
- (n.2) “modular home” means a home that is constructed from a number of pre-assembled units that are intended for delivery to and assembly at a residential site;
- (o) “municipality” includes
  - (i) a district, as defined in the *School Act*, in which a collecting board is authorized under section 180 of that Act to impose and collect taxes or, where the district is authorized or required to act, the collecting board, and
  - (ii) an improvement district and a special area or, where the improvement district or special area is authorized or required to act, the Minister;
- (p) “operator”, in respect of linear property, means
  - (i) for linear property described in clause (k)(iii)
    - (A) the licensee, as defined in the *Pipeline Act*,
    - (B) the licensee, as defined in the *Oil and Gas Conservation Act*, or
    - (C) the person who has applied in writing to and been approved by the Minister as the operator,or, where paragraphs (A), (B) and (C) do not apply, the owner, and
  - (ii) for other linear property,
    - (A) the owner, or
    - (B) the person who has applied in writing to and been approved by the Minister as the operator;
- (q) “owner”, in respect of a designated manufactured home, means the owner of the designated manufactured home and not the person in lawful possession of it;
- (r) “property” means
  - (i) a parcel of land,
  - (ii) an improvement, or

- (iii) a parcel of land and the improvements to it;
  - (s) “railway” means roadway and superstructure;
  - (t) “roadway” means the continuous strip of land owned or occupied by a person as a right of way for trains, leading from place to place in Alberta, but not including
    - (i) land that is outside the right of way and owned or occupied by the corporation for station grounds or extra right of way for sidings, spur tracks, wyes or other trackage for trains, or
    - (ii) land within the right of way that is used by the corporation for purposes other than the operation of trains;
  - (u) “structure” means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;
  - (v) “superstructure” means
    - (i) the grading, ballast and improvements located on a right of way for trains and used for the operation of trains, and
    - (ii) the improvements that form part of a telecommunications system intended for or used in the operation of trains;
  - (w) “telecommunications system” means a system intended for or used in the transmission, emission or reception of cable television or telecommunications, but not including radio communications intended for direct reception by the general public;
  - (w.1) “travel trailer” means a trailer intended to provide accommodation for vacation use and licensed and equipped to travel on a road;
  - (x) “year” means a 12-month period beginning on January 1 and ending on the next December 31.
- (2)** In this Part and Parts 10, 11 and 12, a reference to a parcel of land that is held under a lease, licence or permit from the Crown in right of Alberta or Canada includes a part of the parcel.
- (3)** For the purposes of this Part and Parts 10, 11 and 12, any document, including an assessment notice and a tax notice, that is

required to be sent to a person is deemed to be sent on the day the document is mailed or otherwise delivered to that person.

RSA 2000 cM-26 s284; 2007 cA-37.2 s82(17);  
2007 c42 s3;2009 c29 s2

## **Division 1 Preparation of Assessments**

### **Preparing annual assessments**

**285** Each municipality must prepare annually an assessment for each property in the municipality, except linear property and the property listed in section 298.

RSA 2000 cM-26 s285;2002 c19 s2

**286** Repealed 1994 cM-26.1 s286.

**287** Repealed 1994 cM-26.1 s287.

**288** Repealed 1994 cM-26.1 s288.

### **Assessments for property other than linear property**

**289(1)** Assessments for all property in a municipality, other than linear property, must be prepared by the assessor appointed by the municipality.

**(2)** Each assessment must reflect

- (a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and
- (b) the valuation and other standards set out in the regulations for that property.

**(3)** Each assessment of a railway must be based on a report provided by December 31 to each municipality the railway runs through by the person that operates the railway, showing

- (a) the amount of land in the municipality occupied by the railway for roadway, and
- (b) the amount of land in the municipality occupied by the railway for purposes other than roadway.

**(4)** If a person that operates a railway does not provide the report required by subsection (3), the assessor must prepare the assessment using whatever information is available about the railway.

RSA 2000 cM-26 s289;2009 c29 s3

**Land to be assessed as a parcel**

**290(1)** If a parcel of land is located in more than one municipality, the assessor must prepare an assessment for the part of the parcel that is located in the municipality in which the assessor has the authority to act, as if that part of the parcel is a separate parcel of land.

**(2)** Any area of land forming part of a right of way for a railway, irrigation works as defined in the *Irrigation Districts Act* or drainage works as defined in the *Drainage Districts Act* but used for purposes other than the operation of the railway, irrigation works or drainage works must be assessed as if it is a parcel of land.

**(3)** Any area of land that is owned by the Crown in right of Alberta or Canada and is the subject of a grazing lease or grazing permit granted by either Crown must be assessed as if it is a parcel of land.

**(4)** Repealed 1995 c24 s37.

1994 cM-26.1 s290;1995 c24 s37;1999 cI-11.7 s214

**Assessment of condominium unit**

**290.1(1)** Each unit and the share in the common property that is assigned to the unit must be assessed

- (a) in the case of a bare land condominium, as if it is a parcel of land, or
- (b) in any other case, as if it is a parcel of land and the improvements to it.

**(2)** In this section, “unit” and “share in the common property” have the meanings given to them in the *Condominium Property Act*.

1995 c24 s38

**Assessment of strata space**

**290.2** Each strata space as defined in section 86 of the *Land Titles Act* must be assessed as if it is a parcel of land and the improvements to it.

1995 c24 s38

**Rules for assessing improvements**

**291(1)** Unless subsection (2) applies, an assessment must be prepared for an improvement whether or not it is complete or capable of being used for its intended purpose.

**(2)** No assessment is to be prepared

- (a) for linear property that is under construction but not completed on or before October 31, unless it is capable of being used for the transmission of gas, oil or electricity,
  - (b) for new improvements that are intended to be used for or in connection with a manufacturing or processing operation and are not completed or in operation on or before December 31, or
  - (c) for new improvements that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in clause (b), if the improvements referred to in clause (b) are not completed or in operation on or before December 31.
- (3) For the purposes of subsection (2)(a),
- (a) “capable of being used”, in respect of linear property, means having the physical capacity to transmit gas, oil or electricity whether or not
    - (i) there is any gas, oil or electricity to transmit, or
    - (ii) there are any facilities connected to the linear property for the sending or receiving of gas, oil or electricity;
  - (b) “construction”, in respect of linear property, means the building or installation, or both, of linear property, but does not include the commissioning, operation or use of linear property.
- (4) For the purposes of subsection (3)(a), linear property that is a pipeline has the physical capacity to transmit gas or oil when pressure testing of the pipeline is successful.
- (5) For the purposes of this section, linear property that is a pipeline must be assessed separately and not as a system of pipelines.

RSA 2000 cM-26 s291;2008 c24 s2

**Assessments for linear property**

- 292(1)** Assessments for linear property must be prepared by the assessor designated by the Minister.
- (2) Each assessment must reflect
- (a) the valuation standard set out in the regulations for linear property, and
  - (b) the specifications and characteristics of the linear property

- (i) as contained in the records of the Alberta Utilities Commission, the Energy Resources Conservation Board or the Alberta Energy Regulator on October 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the linear property, or
- (ii) on October 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the linear property, as contained in the report requested by the assessor under subsection (3).

(3) If the assessor considers it necessary, the assessor may request the operator of linear property to provide a report relating to that property setting out the information requested by the assessor.

(4) On receiving a request under subsection (3), the operator must provide the report not later than December 31.

(5) If the operator does not provide the report in accordance with subsection (4) or the assessor has reasonable grounds to believe that the information provided in the report is inaccurate, the assessor must prepare the assessment using the most accurate information available about the linear property.

RSA 2000 cM-26 s292;2007 cA-37.2 s82(17);2008 c37 s2;  
2012 cR-17.3 s95

#### **Duties of assessors**

**293(1)** In preparing an assessment, the assessor must, in a fair and equitable manner,

- (a) apply the valuation and other standards set out in the regulations, and
- (b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) An assessor appointed by a municipality must, in accordance with the regulations, provide the Minister with information that the Minister requires about property in that municipality.

RSA 2000 cM-26 s293;2002 c19 s3;2009 c29 s4

#### **Right to enter on and inspect property**

**294(1)** After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of preparing an assessment of the property or determining if the property is to be assessed,

- (a) enter on and inspect the property,
- (b) request anything to be produced to assist the assessor in preparing the assessment or determining if the property is to be assessed, and
- (c) make copies of anything necessary to the inspection.

(2) When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

RSA 2000 cM-26 s294;2002 c19 s4

#### **Duty to provide information**

**295(1)** A person must provide, on request by the assessor, any information necessary for the assessor to prepare an assessment or determine if property is to be assessed.

(2) An agency accredited under the *Safety Codes Act* must release, on request by the assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of linear property, under section 492(1) about an assessment if the person has failed to provide the information requested under subsection (1) within 60 days from the date of the request.

RSA 2000 cM-26 s295;2002 c19 s5

#### **Court authorized inspection and enforcement**

**296(1)** An assessor described in section 284(d)(i) or a municipality may apply to the Court of Queen's Bench for an order under subsection (2) if any person

- (a) refuses to allow or interferes with an entry or inspection by an assessor, or
- (b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(2) The Court may make an order



- (a) restraining a person from preventing or interfering with an assessor's entry or inspection, or
  - (b) requiring a person to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.
- (3) A copy of the application and each affidavit in support must be served at least 3 days before the day named in the application for the hearing.

RSA 2000 cM-26 s296;2009 c53 s119

**Assigning assessment classes to property**

**297(1)** When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:

- (a) class 1 - residential;
  - (b) class 2 - non-residential;
  - (c) class 3 - farm land;
  - (d) class 4 - machinery and equipment.
- (2) A council may by bylaw
- (a) divide class 1 into sub-classes on any basis it considers appropriate, and
  - (b) divide class 2 into the following sub-classes:
    - (i) vacant non-residential;
    - (ii) improved non-residential,

and if the council does so, the assessor may assign one or more sub-classes to a property.

(3) If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.

(4) In this section,

- (a) "farm land" means land used for farming operations as defined in the regulations;
- (a.1) "machinery and equipment" does not include

- (i) any thing that falls within the definition of linear property as set out in section 284(1)(k), or
  - (ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;
- (b) “non-residential”, in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land that is used or intended to be used for permanent living accommodation;
- (c) “residential”, in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

RSA 2000 cM-26 s297;2002 c19 s6

**Non-assessable property****298(1)** No assessment is to be prepared for the following property:

- (a) a facility, works or system for
  - (i) the collection, treatment, conveyance or disposal of sanitary sewage, or
  - (ii) storm sewer drainage,that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;
- (b) a facility, works or system for the storage, conveyance, treatment, distribution or supply of water that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;
- (b.1) a water supply and distribution system, including metering facilities, that is owned or operated by an individual or a corporation and used primarily to provide a domestic water supply service;
- (c) irrigation works as defined in the *Irrigation Districts Act* and the land on which they are located when they are held by an irrigation district, but not including any residence or the land attributable to the residence;
- (d) canals, dams, dikes, weirs, breakwaters, ditches, basins, reservoirs, cribs and embankments;

- (e) flood-gates, drains, tunnels, bridges, culverts, headworks, flumes, penstocks and aqueducts
  - (i) located at a dam,
  - (ii) used in the operation of a dam, and
  - (iii) used for water conservation or flood control, but not for the generation of electric power;
- (f) land on which any property listed in clause (d) or (e) is located
  - (i) if the land is a dam site, and
  - (ii) whether or not the property located on the land is used for water conservation, flood control or the generation of electric power;
- (g) a water conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat water to meet municipal standards, but not including any improvement designed and used for
  - (i) the further treatment of the water supply to meet specific water standards for a manufacturing or processing operation,
  - (ii) water reuse,
  - (iii) fire protection, or
  - (iv) the production or transmission of a natural resource;
- (h) a sewage conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat and dispose of domestic sewage, but not including any improvement designed and used for the treatment of other effluent from the manufacturing or processing plant;
- (i) roads, but not including a road right of way that is held under a lease, licence or permit from the Crown in right of Alberta or Canada or from a municipality and that is used for a purpose other than as a road;
- (i.1) weigh scales, inspection stations and other improvements necessary to maintain the roads referred to in clause (i) and to keep those roads and users safe, but not including a street lighting system owned by a corporation, a

municipality or a corporation controlled by a municipality;

- (j) property held by the Crown in right of Alberta or Canada in a municipal district, improvement district, special area or specialized municipality that
  - (i) is not used or actively occupied by the Crown, or
  - (ii) is not occupied under an interest or right granted by the Crown,

unless the property is located in a hamlet or in an urban service area as defined in an order creating a specialized municipality;

- (k) any provincial park or recreation area, including any campground, day use area or administration and maintenance facility held by the Crown in right of Alberta or operated under a facility operation contract or service contract with the Crown in right of Alberta, but not including the following:
  - (i) a residence and the land attributable to it;
  - (ii) property that is the subject of a disposition under the *Provincial Parks Act* or the *Public Lands Act*;
  - (iii) a downhill ski hill, golf course, food concession, store or restaurant, and the land attributable to it, operated under a facility operation contract or a service contract with the Crown in right of Alberta;
- (k.1) any national park held by the Crown in right of Canada, but not including a parcel of land, an improvement, or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Canada;
- (l) property held by the Crown in right of Alberta or Canada and forming part of an undertaking in respect of the conservation, reclamation, rehabilitation or reforestation of land, but not including any residence or the land attributable to the residence;
- (m) property used for or in connection with a forestry tower that is not accessible by road;
- (n) any interest under a timber disposition under the *Forests Act* and the timber harvest or cut authorized by the disposition;

- (o) any interest under a permit or authorization for the grazing of stock under the *Forests Act* or the *Forest Reserves Act*;
- (p) wheel loaders, wheel trucks and haulers, crawler type shovels, hoes and dozers;
- (q) linear property used exclusively for farming operations;
- (r) linear property forming part of a rural gas distribution system and gas conveyance pipelines situated in a rural municipality where that linear property is owned by a municipality or a rural gas co-operative association organized under the *Rural Utilities Act*, but not including gas conveyance pipelines owned by rural gas co-operative associations,
  - (i) from the regulating and metering station to an industrial customer consuming more than 10 000 gigajoules of gas during any period that starts on November 1 in one year and ends on October 31 in the next year and that precedes the year in which the assessment for those pipelines is to be used for the purpose of imposing a tax under Part 10, or
  - (ii) that serve or deliver gas to
    - (A) a city, town, village, summer village or hamlet, or
    - (B) an urban service area as defined in an order creating a specialized municipalitythat has a population of more than 500 people;
- (r.1) linear property forming part of a rural gas distribution system where that gas distribution system is subject to a franchise area approval under the *Gas Distribution Act*;
- (s) cairns and monuments;
- (t) property in Indian reserves;
- (u) property in Metis settlements;
- (v) minerals;
- (w) growing crops;
- (x) the following improvements owned or leased by a regional airports authority created under section 5(2) of the *Regional Airports Authorities Act*:

- (i) runways;
- (ii) paving;
- (iii) roads and sidewalks;
- (iv) reservoirs;
- (v) water and sewer lines;
- (vi) fencing;
- (vii) conveyor belts, cranes, weigh scales, loading bridges and machinery and equipment;
- (viii) pole lines, transmission lines, light standards and unenclosed communications towers;
- (y) farm buildings, except to the extent prescribed in the regulations;
- (z) machinery and equipment, except to the extent prescribed in the regulations;
- (aa) designated manufactured homes held in storage and forming part of the inventory of a manufacturer of or dealer in designated manufactured homes;
- (bb) travel trailers that are
  - (i) not connected to any utility services provided by a public utility, and
  - (ii) not attached or connected to any structure.

**(2)** In subsection (1)(r)(i), “industrial customer” means a customer that operates a factory, plant, works or industrial process related to manufacturing and processing.

RSA 2000 cM-26 s298;2005 c14 s4

#### **Access to assessment record**

**299(1)** An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive sufficient information to show how the assessor prepared the assessment of that person’s property.

**(1.1)** For the purposes of subsection (1), “sufficient information” in respect of a person’s property must include

- (a) all documents, records and other information in respect of that property that the assessor has in the assessor’s possession or under the assessor’s control,

- (b) the key factors, components and variables of the valuation model applied in preparing the assessment of the property, and
- (c) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1).

RSA 2000 cM-26 s299;2009 c29 s5

#### **Access to summary of assessment**

**300(1)** An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the assessment of any assessed property in the municipality.

(1.1) For the purposes of subsection (1), a summary of an assessment must include the following information that the assessor has in the assessor's possession or under the assessor's control:

- (a) a description of the parcel of land and any improvements, to identify the type and use of the property;
- (b) the size of the parcel of land;
- (c) the age and size or measurement of any improvements;
- (d) the key factors, components and variables of the valuation model applied in preparing the assessment of the property;
- (e) any other information prescribed or otherwise described in the regulations.

(2) The municipality must, in accordance with the regulations, comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

RSA 2000 cM-26 s300;2009 c29 s6

#### **Right to release assessment information**

**301** A municipality may provide information in its possession about assessments if it is satisfied that necessary confidentiality will not be breached.

1994 cM-26.1 s301

#### **Relationship to Freedom of Information and Protection of Privacy Act**

**301.1** Sections 299 to 301 prevail despite the *Freedom of Information and Protection of Privacy Act*.

1994 cM-26.1 s738

## Division 2 Assessment Roll

### Preparation of roll

**302(1)** Each municipality must prepare annually, not later than February 28, an assessment roll for assessed property in the municipality other than linear property.

**(2)** The Minister must prepare annually, not later than February 28, an assessment roll for assessed linear property.

RSA 2000 cM-26 s302;2005 c14 s5

### Contents of roll

**303** The assessment roll must show, for each assessed property, the following:

- (a) a description sufficient to identify the location of the property;
- (b) the name and mailing address of the assessed person;
- (c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements to it;
- (d) if the property is an improvement, a description showing the type of improvement;
- (e) the assessment;
- (f) the assessment class or classes;
- (f.1) the liability code assigned by the assessor, in the form and manner prescribed by the regulations;
- (g) whether the property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 156 of the *School Act*;
- (g.1) if the property is linear property, the date the Minister declares the linear property assessment complete;
- (h) if the property is exempt from taxation under Part 10, a notation of that fact;
- (i) any other information considered appropriate by the municipality or by the Minister, as the case may be.

RSA 2000 cM-26 s303;2002 c19 s7;2005 c14 s6



**Recording assessed persons**

**304(1)** The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.

| <b>Column 1<br/>Assessed<br/>property</b>   | <b>Column 2<br/>Assessed<br/>person</b>   |
|---|---|
| (a) a parcel of land, unless otherwise dealt with in this subsection;   | (a) the owner of the parcel of land;  |
| (b) a parcel of land and the improvements to it, unless otherwise dealt with in this subsection;  | (b) the owner of the parcel of land;  |
| (c) a parcel of land, an improvement or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Alberta or Canada or a municipality; | (c) the holder of the lease, licence or permit or, in the case of a parcel of land or a parcel of land and the improvements to it, the person who occupies the land with the consent of that holder or, if the land that was the subject of a lease, licence or permit has been sold under an agreement for sale, the purchaser under that agreement; |

| <b>Column 1<br/>Assessed<br/>property</b>  | <b>Column 2<br/>Assessed<br/>person</b>   |
|--|---|
| (d) a parcel of land forming part of the station grounds of a railway or part of a right of way for a railway, irrigation works as defined in the <i>Irrigation Districts Act</i> or drainage works as defined in the <i>Drainage Districts Act</i> , that is held under a lease, licence or permit from the person who operates the railway, or from the irrigation district or the board of trustees of the drainage district; | (d) the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder; |
| (e) a parcel of land and the improvements to it held under a lease, licence or permit from a regional airports authority, where the land and improvements are used in connection with the operation of an airport;   | (e) the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder; |
| (f) a parcel of land, or a part of a parcel of land, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and the improvements are used for  | (f) the holder of the lease, licence or permit;   |

| <b>Column 1<br/>Assessed<br/>property</b>  | <b>Column 2<br/>Assessed<br/>person</b>                           |
|--|---|
| (i) drilling, treating, separating, refining or processing of natural gas, oil, coal, salt, brine or any combination, product or by-product of any of them,                  |   |
| (ii) pipeline pumping or compressing, or   |   |
| (iii) working, excavating, transporting or storing any minerals in or under the land referred to in the lease, licence or permit or under land in the vicinity of that land. |   |
| (g) machinery and equipment used in the excavation or transportation of coal or oil sands as defined in the <i>Oil Sands Conservation Act</i> ;                              | (g) the owner of the machinery and equipment;                     |
| (h) improvements to a parcel of land listed in section 298 for which no assessment is to be prepared;  | (h) the person who owns or has exclusive use of the improvements; |
| (i) linear property;   | (i) the operator of the linear property;                          |

| <b>Column 1<br/>Assessed<br/>property</b>   | <b>Column 2<br/>Assessed<br/>person</b>  |
|---|--|
| (j) a designated manufactured home on a site in a manufactured home community and any other improvements located on the site and owned or occupied by the person occupying the designated manufactured home;  | (j) the owner of <ul style="list-style-type: none"> <li>(i) the designated manufactured home, or</li> <li>(ii) the manufactured home community if the municipality passes a bylaw to that effect;</li> </ul> |
| (k) a designated manufactured home located on a parcel of land that is not owned by the owner of the designated manufactured home together with any other improvements located on the site that are owned or occupied by the person occupying the designated manufactured home. | (k) the owner of the designated manufactured home if the municipality passes a bylaw to that effect.   |

**(2)** When land is occupied under the authority of a right of entry order as defined in the *Surface Rights Act* or an order made under any other Act, it is, for the purposes of subsection (1), considered to be occupied under a lease or licence from the owner of the land.

**(3)** A person who purchases property or in any other manner becomes liable to be shown on the assessment roll as an assessed person

- (a) must provide to the Minister, in the case of linear property, or
- (b) must provide to the municipality, in the case of property other than linear property,

written notice of a mailing address to which notices under this Part and Part 10 may be sent.

(4) Despite subsection (1)(c), no individual who occupies housing accommodation under a lease, licence or permit from a management body under the *Alberta Housing Act* is to be recorded as an assessed person if the sole purpose of the lease, licence or permit is to provide housing accommodation for that individual.

(5) A bylaw passed under subsection (1)(j)(ii) on or after January 1, 1996 and before May 24, 1996 has no effect.

(6) A bylaw passed under subsection (1)(j)(ii)

- (a) must be advertised,
- (b) has no effect until the beginning of the year commencing at least 12 months after the bylaw is passed,
- (c) must indicate the criteria used to designate the assessed person, and
- (d) may apply to one or more manufactured home communities.

(7) When a bylaw is passed under subsection (1)(j)(ii), the owner of the designated manufactured home is the assessed person for the purpose of making a complaint under section 460(1) relating to the designated manufactured home.

RSA 2000 cM-26 s304;2005 c14 s7;2008 c37 s3

#### **Correction of roll**

**305(1)** If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

- (a) the assessor may correct the assessment roll for the current year only, and
- (b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

(2) If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 368, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

(4) The date of every entry made on the assessment roll under this section or section 477 or 517 must be shown on the roll.

(5) If a complaint has been made under section 460 or 488 about an assessed property, the assessor must not correct or change the assessment roll in respect of that property until a decision of an assessment review board or the Municipal Government Board, as the case may be, has been rendered or the complaint has been withdrawn.

(6) Despite subsection (5), subsection (1)(b) does not apply if the assessment roll is

- (a) corrected as a result of a complaint being withdrawn by agreement between the complainant and the assessor, or
- (b) changed under section 477 or 517.

RSA 2000 cM-26 s305;2002 c19 s8;2009 c29 s7

#### **Report to Minister**

**305.1** If an assessment roll is corrected under section 305 or changed under section 477 or 517, the municipality must, in the form and within the time prescribed by the regulations, report the correction or change, as the case may be, to the Minister.

2002 c19 s9

#### **Severability of roll**

**306** The fact that any information shown on the assessment roll contains an error, omission or misdescription does not invalidate any other information on the roll or the roll itself.

1994 cM-26.1 s306

#### **Inspection of roll**

**307** Any person may inspect the assessment roll during regular business hours on payment of the fee set by the council.

1994 cM-26.1 s307

### **Division 3 Assessment Notices**

#### **Assessment notices**

**308(1)** Each municipality must annually

- (a) prepare assessment notices for all assessed property, other than linear property, shown on the assessment roll referred to in section 302(1), and
- (b) send the assessment notices to the assessed persons in accordance with the regulations.

(2) The assessor designated by the Minister must annually

- (a) prepare assessment notices for all assessed linear property shown on the assessment roll referred to in section 302(2),

- (b) send the assessment notices to the assessed persons in accordance with the regulations, and
  - (c) send the municipality copies of the assessment notices.
- (3)** The municipality must record on the assessment roll the information in the assessment notices sent to it under subsection (2)(c).
- (4)** The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.
- (5)** When an assessment notice is combined with a tax notice under subsection (4) in respect of linear property, the combined notice must indicate that
- (a) an assessment review board has no jurisdiction to deal with complaints about assessments for linear property, and
  - (b) the Municipal Government Board has jurisdiction to hear complaints about assessments for linear property.

RSA 2000 cM-26 s308;2005 c14 s8

**Contents of assessment notice**

**309(1)** An assessment notice or an amended assessment notice must show the following:

- (a) the same information that is required to be shown on the assessment roll;
  - (b) the date the assessment notice or amended assessment notice is sent to the assessed person;
  - (c) the date by which a complaint must be made, which date must be 60 days after the assessment notice or amended assessment notice is sent to the assessed person;
  - (d) the name and address of the designated officer with whom a complaint must be filed;
  - (e) any other information considered appropriate by the municipality.
- (2)** An assessment notice may include a number of assessed properties if the same person is the assessed person for all of them.

RSA 2000 cM-26 s309;2009 c29 s8

**Sending assessment notices**

**310(1)** Subject to subsection (1.1), assessment notices must be sent no later than July 1 of each year.

- (1.1) An amended assessment notice must be sent no later than the date the tax notices are required to be sent under Part 10.
- (2) If the mailing address of an assessed person is unknown,
- (a) a copy of the assessment notice must be sent to the mailing address of the assessed property, and
  - (b) if the mailing address of the property is also unknown, the assessment notice must be retained by the municipality or the assessor designated by the Minister, as the case may be, and is deemed to have been sent to the assessed person.

RSA 2000 cM-26 s310;2009 c29 s9

**Publication of notice**

**311(1)** Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.

(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.

(3) The assessor designated by the Minister must publish in The Alberta Gazette a notice that the assessment notices in respect of linear property have been sent.

(4) All assessed persons are deemed as a result of the publication referred to in subsection (3) to have received their assessment notices in respect of linear property.

RSA 2000 cM-26 s311;2005 c14 s9

**Correction of notice**

**312** If it is discovered that there is an error, omission or misdescription in any of the information shown on an assessment notice, an amended assessment notice may be prepared and sent to the assessed person.

1994 cM-26.1 s312

## Division 4 Preparation of Supplementary Assessments

**Bylaw**

**313(1)** If a municipality wishes to require the preparation of supplementary assessments for improvements, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 in the same year.



- (2) A bylaw under subsection (1) must refer
- (a) to all improvements, or
  - (b) to all designated manufactured homes in the municipality.
- (3) A supplementary assessment bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year.
- (4) A supplementary assessment bylaw must not authorize assessments to be prepared for linear property.

1994 cM-26.1 s313;1998 c24 s20

### **Supplementary assessment**

- 314(1)** The assessor must prepare supplementary assessments for machinery and equipment used in manufacturing and processing if those improvements are completed or begin to operate in the year in which they are to be taxed under Part 10.
- (2) The assessor must prepare supplementary assessments for other improvements if
- (a) they are completed in the year in which they are to be taxed under Part 10,
  - (b) they are occupied during all or any part of the year in which they are to be taxed under Part 10, or
  - (c) they are moved into the municipality during the year in which they are to be taxed under Part 10 and they will not be taxed in that year by another municipality.
- (2.1)** The assessor may prepare a supplementary assessment for a designated manufactured home that is moved into the municipality during the year in which it is to be taxed under Part 10 despite that the designated manufactured home will be taxed in that year by another municipality.
- (3) A supplementary assessment must reflect
- (a) the value of an improvement that has not been previously assessed, or
  - (b) the increase in the value of an improvement since it was last assessed.
- (4) Supplementary assessments must be prepared in the same manner as assessments are prepared under Division 1, but must be prorated to reflect only the number of months during which the improvement is complete, occupied, located in the municipality or in operation, including the whole of the first month in which the

improvement was completed, was occupied, was moved into the municipality or began to operate.

1994 cM-26.1 s314;1998 c24 s21

#### **Supplementary assessment roll**

**315(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must prepare a supplementary assessment roll.

**(2)** A supplementary assessment roll must show, for each assessed improvement, the following:

- (a) the same information that is required to be shown on the assessment roll;
- (b) the date that the improvement
  - (i) was completed, occupied or moved into the municipality, or
  - (ii) began to operate.

**(3)** Sections 304, 305, 306 and 307 apply in respect of a supplementary assessment roll.

1994 cM-26.1 s315

#### **Supplementary assessment notices**

**316(1)** Before the end of the year in which supplementary assessments are prepared, the municipality must

- (a) prepare a supplementary assessment notice for every assessed improvement shown on the supplementary assessment roll, and
- (b) send the supplementary assessment notices to the assessed persons.

**(2)** A supplementary assessment notice must show, for each assessed improvement, the following:

- (a) the same information that is required to be shown on the supplementary assessment roll;
- (b) the date the supplementary assessment notice is sent to the assessed person;
- (c) the date by which a complaint must be made, which date must be 60 days after the supplementary assessment notice is sent to the assessed person;
- (d) the address to which a complaint must be sent.

(3) Sections 309(2), 310(1.1) and 312 apply in respect of supplementary assessment notices.

RSA 2000 cM-26 s316;2009 c29 s10

## **Division 5 Equalized Assessments**

### **Definition**

**317** In this Division, “equalized assessment” means an assessment that is prepared by the Minister in accordance with this Division for an entire municipality and reflects

- (a) assessments of property in the municipality that is taxable under Part 10,
- (b) assessments of property in the municipality in respect of which a grant may be paid by the Crown under section 366,
- (c) assessments of property in the municipality in respect of which a grant may be paid by the Crown in right of Canada under the *Municipal Grants Act* (Canada),
- (d) assessments of property in the municipality made taxable or exempt as a result of a council passing a bylaw under Part 10, except any property made taxable under section 363(1)(d), and
- (e) assessments of property in the municipality that is the subject of a tax agreement under section 333.1 or 360,

from the year preceding the year in which the equalized assessment is effective.

1994 cM-26.1 s317;1995 c24 s43;1998 c24 s22

### **Supplementary assessments**

**317.1** Despite section 317, supplementary assessments prepared under a supplementary assessment bylaw under section 313 must not be included in the equalized assessment for a municipality.

1995 c24 s44

### **Preparation of equalized assessments**

**318** The Minister must prepare annually, in accordance with the regulations, an equalized assessment for each municipality.

1994 cM-26.1 s318

### **Duty to provide information**

**319(1)** Each municipality must provide to the Minister annually, not later than April 1, a return containing the information requested by the Minister in the form required by the Minister.

(2) If a municipality does not provide the information requested by the Minister, the Minister must prepare the equalized assessment using whatever information is available about the municipality.

1994 cM-26.1 s319

#### **Sending equalized assessments to municipalities**

**320** The Minister must send to each municipality annually, not later than November 1, a report of all the equalized assessments prepared.

1994 cM-26.1 s320

#### **Appeal of equalized assessment**

**321** A municipality may make a complaint regarding the amount of an equalized assessment to the Municipal Government Board not later than 30 days from the date the Minister sends the municipality the report described in section 320.

RSA 2000 cM-26 s321;2002 c19 s12;2009 c29 s11

### **Division 6 General Powers of the Minister Relating to Assessments and Equalized Assessments**

#### **Regulations**

**322(1)** The Minister may make regulations

- (a) respecting qualifications to be met by persons authorized to carry out the duties and responsibilities of an assessor under this Act;
- (b) defining “farming operations”, “farm building” and “machinery and equipment”;
- (c) respecting the extent to which farm buildings and machinery and equipment may be assessed under section 298;
- (d) establishing valuation standards for property;
- (e) respecting processes and procedures for preparing assessments;
- (e.1) respecting the manner in which an assessor must inform an owner or occupier of any property of the purpose for which information is being collected under sections 294 and 295;
- (e.2) respecting assessment rolls and assessment notices including, without limitation, regulations

- (i) respecting the information to be shown on an assessment roll and on an assessment notice;
  - (ii) providing for the method of determining the assessed person for the purposes of section 304(1);
  - (iii) respecting the sending of assessment notices;
  - (f) respecting the allowance of depreciation on machinery and equipment;
  - (g) prescribing standards to be met by assessors in the preparation of assessments;
  - (g.1) prescribing or otherwise describing information for the purposes of sections 299(1.1)(c) and 300(1.1)(e);
  - (g.2) respecting procedures and time-lines to be followed by a municipality in dealing with a request for information under section 299 or a request for a summary of an assessment under section 300;
  - (g.3) respecting the imposition of penalties or other sanctions against a municipality for failing to comply with a request for information under section 299 or a request for a summary of an assessment under section 300;
  - (h) respecting equalized assessments;
  - (h.1) respecting the audit of any matters relating to assessments;
  - (i) respecting any other matter considered necessary to carry out the intent of this Act.
- (2)** Where the Minister considers it advisable to do so, the Minister may by order establish guidelines respecting any matter for which the Minister may make a regulation under subsection (1).
- (3)** A guideline established under subsection (2) is a regulation for the purposes of this Act, but is exempted from the application of the *Regulations Act*.
- (4)** The Minister must
- (a) publish in The Alberta Gazette a notice of any guideline established under subsection (2) and information about where copies of the guideline may be obtained or are available to the public;

- (b) ensure that any guideline established under subsection (2) is published in a form and manner that the Minister considers appropriate.

(5) Subsection (4) applies only to guidelines established under subsection (2) on or after July 1, 2007.

RSA 2000 cM-26 s322;2002 c19 s14;2005 c14 s10;  
2007 c16 s2;2009 c29 s12

#### Validation of Minister's Guidelines

**322.1(1)** In this section,

- (a) "Minister's Guidelines" means
  - (i) the following guidelines referred to in the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004):
    - (A) Alberta Assessment Quality Minister's Guidelines;
    - (B) Alberta Farm Land Assessment Minister's Guidelines;
    - (C) Alberta Linear Property Assessment Minister's Guidelines;
    - (D) Alberta Machinery and Equipment Assessment Minister's Guidelines;
    - (E) Alberta Railway Assessment Minister's Guidelines,
  - (ii) any previous versions of the guidelines named in subclause (i) that are referred to in the previous regulations, and
  - (iii) the 2005 Construction Cost Reporting Guide established by the Minister and any previous versions of the Construction Cost Reporting Guide established by the Minister,

and includes any manuals, guides and handbooks referred to or incorporated into any of the guidelines or guides referred to in subclauses (i) to (iii);

- (b) "previous regulations" means
  - (i) the *Matters Relating to Assessment and Taxation Regulation* (AR 289/99), and

- (ii) the *Standards of Assessment Regulation* (AR 365/94).

(2) The Minister's Guidelines are declared valid as of the dates on which they were established, and no assessment prepared pursuant to the Minister's Guidelines shall be challenged on the basis of the validity of the Minister's Guidelines

- (a) in any existing or future proceeding under this or any other Act, or
- (b) in any existing or future action, matter or proceeding before a court.

(3) The Minister's Guidelines are deemed to be guidelines established under section 322(2).

2007 c16 s3

#### **Minister's power to prepare assessments**

**323** If it appears to the Minister that in any year a council will be unable to carry out its obligation under section 285, the Minister may cause any or all of the assessments in the municipality to be prepared and the council is responsible for the costs.

1994 cM-26.1 s323

#### **Minister's power to quash assessments**

**324(1)** If, after an inspection under section 571 or an audit under the regulations is completed, the Minister is of the opinion that an assessment

- (a) has not been prepared in accordance with the rules and procedures set out in this Part and the regulations,
- (b) is not fair and equitable, taking into consideration assessments of similar property, or
- (c) does not meet the standards required by the regulations,

the Minister may quash the assessment and direct that a new assessment be prepared.

(2) On quashing an assessment, the Minister must provide directions as to the manner and times in which

- (a) the new assessment is to be prepared,
- (b) the new assessment is to be placed on the assessment roll, and
- (c) amended assessment notices are to be sent to the assessed persons.

(3) The Minister must specify the effective date of a new assessment prepared under this section.

RSA 2000 cM-26 s324;2002 c19 s15

**Minister's power to alter an equalized assessment**

**325** Despite anything in this Act, the Minister may adjust an equalized assessment at any time.

1994 cM-26.1 s325

## **Part 10 Taxation**

### **Division 1 General Provisions**

#### **Definitions**

**326** In this Part,

- (a) “requisition” means
  - (i) repealed 1995 c24 s45,
  - (ii) any part of the amount required to be paid into the Alberta School Foundation Fund under section 174 of the *School Act* that is raised by imposing a rate referred to in section 174 of the *School Act*,
  - (iii) any part of the requisition of school boards under Part 6, Division 3 of the *School Act*, or
  - (iv) repealed 2008 cE-6.6 s55,
  - (v) the amount required to be paid to a management body under section 7 of the *Alberta Housing Act*;
- (b) “student dormitory” means a housing unit
  - (i) that is used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature, and
  - (ii) the residents of which are students of a facility used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature,

but does not include a single family residence and the land attributable to that residence;



- (c) “tax arrears” means taxes that remain unpaid after December 31 of the year in which they are imposed.

RSA 2000 cM-26 s326;2008 cE-6.6 s55

#### **Tax roll**

**327(1)** Each municipality must prepare a tax roll annually.

**(2)** The tax roll may consist of one roll for all taxes imposed under this Part or a separate roll for each tax imposed under this Part.

**(3)** The tax roll for property tax may be a continuation of the assessment roll prepared under Part 9 or may be separate from the assessment roll.

**(4)** The fact that any information shown on the tax roll contains an error, omission or misdescription does not invalidate any other information on the roll or the roll itself.

1994 cM-26.1 s327

#### **Duty to provide information**

**328** Taxpayers must provide, on request by the municipality, any information necessary for the municipality to prepare its tax roll.

1994 cM-26.1 s328

#### **Contents of tax roll**

**329** The tax roll must show, for each taxable property or business, the following:

- (a) a description sufficient to identify the location of the property or business;
- (b) the name and mailing address of the taxpayer;
- (c) the assessment;
- (d) the name, tax rate and amount of each tax imposed in respect of the property or business;
- (e) the total amount of all taxes imposed in respect of the property or business;
- (f) the amount of tax arrears, if any;
- (g) if any property in the municipality is the subject of an agreement between the taxpayer and the municipality under section 347(1) relating to tax arrears, a notation of that fact;
- (h) any other information considered appropriate by the municipality.

1994 cM-26.1 s329

**Correction of roll**

**330(1)** If it is discovered that there is an error, omission or misdescription in any of the information shown on the tax roll, the municipality may correct the tax roll for the current year only and on correcting the roll, it must prepare and send an amended tax notice to the taxpayer.

(2) If it is discovered that no tax has been imposed on a taxable property or business, the municipality may impose the tax for the current year only and prepare and send a tax notice to the taxpayer.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 368, the municipality must correct the tax roll and on correcting the roll, it must send an amended tax notice to the taxpayer.

(4) The date of every entry made on the tax roll under this section must be shown on the roll.

1994 cM-26.1 s330

**Person liable to pay taxes**

**331(1)** Subject to the regulations, the person liable to pay a property tax imposed under this Part is the person who

- (a) at the time the assessment is prepared under Part 9, is the assessed person, or
- (b) subsequently becomes the assessed person.

(2) The person liable to pay any other tax imposed under this Part is the person who

- (a) at the time the tax is imposed, is liable in accordance with this Part or a regulation made under this Part to pay the tax, or
- (b) subsequently becomes liable in accordance with this Part or a regulation made under this Part to pay it.

RSA 2000 cM-26 s331;2005 c14 s11

**Taxes imposed on January 1**

**332** Taxes imposed under this Part, other than a supplementary property tax and a supplementary business tax, are deemed to have been imposed on January 1.

1994 cM-26.1 s332

**Tax notices**

**333(1)** Each municipality must annually

- (a) prepare tax notices for all taxable property and businesses shown on the tax roll of the municipality, and

(b) send the tax notices to the taxpayers.

(2) A tax notice may include a number of taxable properties and taxable businesses if the same person is the taxpayer for all of them.

(3) A tax notice may consist of one notice for all taxes imposed under this Part, a separate notice for each tax or several notices showing one or more taxes.

(4) The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.

1994 cM-26.1 s333

#### **Tax agreements**

**333.1(1)** The council of a municipality may make a tax agreement with an assessed person who occupies or manages

(a) the municipality's property, including property under the direction, control and management of

(i) the municipality, or

(ii) a non-profit organization that holds the property on behalf of the municipality,

or

(b) property for the purpose of operating a professional sports franchise.

(2) A tax agreement may provide that, instead of paying the taxes imposed under this Part and any other fees or charges payable to the municipality, the assessed person may make an annual payment to the municipality calculated under the agreement.

(3) A tax agreement under this section must provide that the municipality accepts payment of the amount calculated under the agreement in place of the taxes and other fees or charges specified in the agreement.

1998 c24 s24

#### **Contents of tax notice**

**334(1)** A tax notice must show the following:

(a) the same information that is required to be shown on the tax roll;

(b) the date the tax notice is sent to the taxpayer;

(c) the amount of the requisitions, any one or more of which may be shown separately or as part of a combined total;

- (d) except when the tax is a property tax, the date by which a complaint must be made, which date must not be less than 30 days after the tax notice is sent to the taxpayer;
  - (e) the name and address of the designated officer with whom a complaint must be filed;
  - (f) the dates on which penalties may be imposed if the taxes are not paid;
  - (g) any other information considered appropriate by the municipality.
- (2)** A tax notice may show
- (a) one tax rate that combines all of the tax rates set by the property tax bylaw, or
  - (b) each of the tax rates set by the property tax bylaw.
- (3)** Despite subsection (2), a tax notice must show, separately from all other tax rates shown on the notice, the tax rates set by the property tax bylaw to raise the revenue to pay the requisitions referred to in section 326(a)(ii).

1994 cM-26.1 s334;1995 c24 s46;1998 c24 s25

#### **Sending tax notices**

**335(1)** The tax notices must be sent before the end of the year in which the taxes are imposed.

- (2)** If the mailing address of a taxpayer is unknown
- (a) a copy of the tax notice must be sent to the mailing address of the taxable property or business, and
  - (b) if the mailing address of the taxable property or business is also unknown, the tax notice must be retained by the municipality and is deemed to have been sent to the taxpayer.

1994 cM-26.1 s335

#### **Certification of date of sending tax notice**

**336(1)** A designated officer must certify the date the tax notices are sent under section 335.

- (2)** The certification of the date referred to in subsection (1) is evidence that the tax notices have been sent and that the taxes have been imposed.

1994 cM-26.1 s336

**Deemed receipt of tax notice**

**337** A tax notice is deemed to have been received 7 days after it is sent.

1994 cM-26.1 s337

**Correction of tax notice**

**338** If it is discovered that there is an error, omission or misdescription in any of the information shown on a tax notice, the municipality may prepare and send an amended tax notice to the taxpayer.

1994 cM-26.1 s338

**Incentives**

**339** A council may by bylaw provide incentives for payment of taxes by the dates set out in the bylaw.

1994 cM-26.1 s339

**Instalments**

**340(1)** A council may by bylaw permit taxes to be paid by instalments, at the option of the taxpayer.

**(2)** A person who wishes to pay taxes by instalments must make an agreement with the council authorizing that method of payment.

**(3)** When an agreement under subsection (2) is made, the tax notice, or a separate notice enclosed with the tax notice, must state

- (a) the amount and due dates of the instalments to be paid in the remainder of the year, and
- (b) what happens if an instalment is not paid.

1994 cM-26.1 s340

**Deemed receipt of tax payment**

**341** A tax payment that is sent by mail to a municipality is deemed to have been received by the municipality on the date of the postmark stamped on the envelope.

1994 cM-26.1 s341

**Receipt for payment of taxes**

**342** When taxes are paid to a municipality, the municipality must provide a receipt.

1994 cM-26.1 s342

**Application of tax payment**

**343(1)** A tax payment must be applied first to tax arrears.

(2) If a person does not indicate to which taxable property or business a tax payment is to be applied, a designated officer must decide to which taxable property or business owned by the taxpayer the payment is to be applied.

1994 cM-26.1 s343

#### **Penalty for non-payment in current year**

**344(1)** A council may by bylaw impose penalties in the year in which a tax is imposed if the tax remains unpaid after the date shown on the tax notice.

(2) A penalty under this section is imposed at the rate set out in the bylaw.

(3) The penalty must not be imposed sooner than 30 days after the tax notice is sent out.

1994 cM-26.1 s344

#### **Penalty for non-payment in other years**

**345(1)** A council may by bylaw impose penalties in any year following the year in which a tax is imposed if the tax remains unpaid after December 31 of the year in which it is imposed.

(2) A penalty under this section is imposed at the rate set out in the bylaw.

(3) The penalty must not be imposed sooner than January 1 of the year following the year in which the tax was imposed or any later date specified in the bylaw.

1994 cM-26.1 s345

#### **Penalties**

**346** A penalty imposed under section 344 or 345 is part of the tax in respect of which it is imposed.

1994 cM-26.1 s346

#### **Cancellation, reduction, refund or deferral of taxes**

**347(1)** If a council considers it equitable to do so, it may, generally or with respect to a particular taxable property or business or a class of taxable property or business, do one or more of the following, with or without conditions:

- (a) cancel or reduce tax arrears;
- (b) cancel or refund all or part of a tax;
- (c) defer the collection of a tax.

(2) A council may phase in a tax increase or decrease resulting from the preparation of any new assessment.

1994 cM-26.1 s347

**Tax becomes debt to municipality****348** Taxes due to a municipality

- (a) are an amount owing to the municipality,
- (b) are recoverable as a debt due to the municipality,
- (c) take priority over the claims of every person except the Crown, and
- (d) are a special lien
  - (i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy, or
  - (ii) on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax imposed in respect of a designated manufactured home in a manufactured home community.

RSA 2000 cM-26 s348;2005 c14 s12

**Fire insurance proceeds**

**349(1)** Taxes that have been imposed in respect of improvements are a first charge on any money payable under a fire insurance policy for loss or damage to those improvements.

**(2)** Taxes that have been imposed in respect of a business are a first charge on any money payable under a fire insurance policy for loss or damage to any personal property

- (a) that is located on the premises occupied for the purposes of the business, and
- (b) that is used in connection with the business and belongs to the taxpayer.

1994 cM-26.1 s349

**Tax certificates**

**350** On request, a designated officer must issue a tax certificate showing

- (a) the amount of taxes imposed in the year in respect of the property or business specified on the certificate and the amount of taxes owing, and
- (b) the total amount of tax arrears, if any.

1994 cM-26.1 s350

**Non-taxable property**

**351(1)** The following are exempt from taxation under this Part:

- (a) property listed in section 298;
- (b) any property or business in respect of which an exemption from assessment or taxation, or both, was granted before January 1, 1995
  - (i) by a private Act, or
  - (ii) by an order of the Lieutenant Governor in Council based on an order of the Local Authorities Board.

**(2)** A council may by bylaw cancel an exemption referred to in subsection (1)(b), with respect to any property or business.

**(3)** A council proposing to pass a bylaw under subsection (2) must notify the person or group that will be affected of the proposed bylaw.

**(4)** A bylaw under subsection (2) has no effect until the expiration of one year after it is passed.

**(5)** A copy of a bylaw under subsection (2) must be sent to the Minister and if the bylaw amends a private Act the Minister must send a copy to the clerk of the Legislative Assembly.

1994 cM-26.1 s351

**Limitation on time for starting proceedings**

**352(1)** An action, suit or other proceedings for the return by a municipality of any money paid to the municipality, whether under protest or otherwise, as a result of a claim by the municipality, whether valid or invalid, for payment of taxes or tax arrears must be started within 6 months after the payment of the money to the municipality.

**(2)** If no action, suit or other proceeding is started within the period referred to in subsection (1), the payment made to the municipality is deemed to have been a voluntary payment.

1994 cM-26.1 s352

## **Division 2 Property Tax**

**Property tax bylaw**

**353(1)** Each council must pass a property tax bylaw annually.

**(2)** The property tax bylaw authorizes the council to impose a tax in respect of property in the municipality to raise revenue to be used toward the payment of



- (a) the expenditures and transfers set out in the budget of the municipality, and
  - (b) the requisitions.
- (3) The tax must not be imposed in respect of property
- (a) that is exempt under section 351, 361 or 362, or
  - (b) that is exempt under section 363 or 364, unless the bylaw passed under that section makes the property taxable.

1994 cM-26.1 s353

**Tax rates**

**354(1)** The property tax bylaw must set and show separately all of the tax rates that must be imposed under this Division to raise the revenue required under section 353(2).

(2) A tax rate must be set for each assessment class or sub-class referred to in section 297.

(3) The tax rate may be different for each assessment class or sub-class referred to in section 297.

(3.1) Despite subsection (3), the tax rate set for the class referred to in section 297(1)(d) to raise the revenue required under section 353(2)(a) must be equal to the tax rate set for the class referred to in section 297(1)(b) to raise revenue for that purpose.

(4) The tax rates set by the property tax bylaw must not be amended after the municipality sends the tax notices to the taxpayers unless subsection (5) applies.

(5) If after sending out the tax notices the municipality discovers an error or omission that relates to the tax rates set by the property tax bylaw, the Minister may by order permit a municipality to revise the property tax bylaw and send out a revised tax notice.

1994 cM-26.1 s354;1996 c30 s26;1998 c24 s27;1999 c11 s15

**Calculating tax rates**

**355** A tax rate is calculated by dividing the amount of revenue required by the total assessment of all property on which that tax rate is to be imposed.

1994 cM-26.1 s355;1995 c24 s47

**Calculating amount of tax**

**356** The amount of tax to be imposed under this Division in respect of a property is calculated by multiplying the assessment for the property by the tax rate to be imposed on that property.

1994 cM-26.1 s356

**Special provision of property tax bylaw**

**357(1)** Despite anything in this Division, the property tax bylaw may specify a minimum amount payable as property tax.

**(1.1)** Despite section 353, a council may pass a bylaw separate from the property tax bylaw that provides for compulsory tax instalment payments for designated manufactured homes.

**(2)** If the property tax bylaw specifies a minimum amount payable as property tax, the tax notice must indicate the tax rates set by the property tax bylaw that raise the revenue required to pay the requisition referred to in section 326(a)(ii).

1994 cM-26.1 s357;1995 c24 s48;1998 c24 s28

**Tax rate for linear property**

**358(1)** The tax rate to be imposed on linear property must be uniform throughout a municipality.

**(2)** The tax rate to be imposed on linear property must be calculated in accordance with the procedure prescribed in the regulations.

1994 cM-26.1 s358

**Requisitions**

**359(1)** When a requisition applies to only part of a municipality, the revenue needed to pay it must be raised by imposing a tax under this Division in respect of property in that part of the municipality.

**(2)** In calculating the tax rate required to raise sufficient revenue to pay the requisitions, a municipality may include an allowance for non-collection of taxes at a rate not exceeding the actual rate of taxes uncollected from the previous year's tax levy as determined at the end of that year.

**(3)** If in any year the property tax imposed to pay the requisitions results in too much or too little revenue being raised for that purpose, the council must accordingly reduce or increase the amount of revenue to be raised for that purpose in the next year.

1994 cM-26.1 s359;1995 c24 s49

**Alberta School Foundation Fund requisitions**

**359.1(1)** In this section, "Alberta School Foundation Fund requisition" means a requisition referred to in section 326(a)(ii).

**(2)** In 1995 and subsequent years, when an Alberta School Foundation Fund requisition applies only to

- (a) one of the assessment classes referred to in section 297,

- (b) a combination of the assessment classes referred to in section 297, or
- (c) linear property,

the revenue needed to pay it must be raised by imposing a tax under this Division only in respect of property to which that one assessment class has been assigned, property to which any assessment class in that combination has been assigned or linear property, as the case may be.

**(3)** Despite subsection (2), if a council has passed bylaws under sections 364(1.1) and 371, the council may apply an appropriate amount received under the business tax to the payment of the Alberta School Foundation Fund requisition on the non-residential assessment class referred to in section 297 to offset the increase in the tax rate applicable to that class that would otherwise result.

**(4)** The tax rate required to raise the revenue needed to pay the Alberta School Foundation Fund requisition

- (a) must be the same within the assessment class to which the requisition applies if it applies to only one class,
- (b) must be the same for all assessment classes that are to be combined if the requisition applies to a combination of assessment classes, and
- (c) must be the same for all linear property.

**(5), (6)** Repealed by Revision.

**(7)** In calculating the tax rate required to raise sufficient revenue to pay an Alberta School Foundation Fund requisition, a municipality

- (a) must not include the allowances referred to in section 359(2),
- (b) may impose a separate tax to raise the revenue to pay for the allowances referred to in section 359(2), and
- (c) may include the amounts referred to in section 359(3).

**(8)** Section 354 does not apply to tax rates required to raise revenue needed to pay an Alberta School Foundation Fund requisition.

1995 c24 s50;1997 c19 s3

#### **School board requisitions**

**359.2(1)** In this section, “school board requisition” means a requisition referred to in section 326(a)(iii).

**(2)** In 1995 and subsequent years, when a school board requisition applies only to

- (a) one of the assessment classes referred to in section 297,
- (b) a combination of the assessment classes referred to in section 297, or
- (c) linear property,

the revenue needed to pay it must be raised by imposing a tax under this Division only in respect of property to which that one assessment class has been assigned, property to which any assessment class in that combination has been assigned or linear property, as the case may be.

**(3)** Despite subsection (2), if a council has passed bylaws under sections 364(1.1) and 371, the council may apply an appropriate amount received under the business tax to the payment of the school board requisition on the non-residential assessment class referred to in section 297 to offset the increase in the tax rate applicable to that class that would otherwise result.

**(4)** The tax rate required to raise the revenue needed to pay the school board requisitions

- (a) must be the same within the assessment class to which the requisition applies if it applies to only one class,
- (b) must be the same for all assessment classes that are to be combined if the requisition applies to a combination of assessment classes, and
- (c) must be the same for all linear property.

**(5), (6)** Repealed by Revision.

**(7)** In calculating the tax rate required to raise sufficient revenue to pay a school board requisition, a municipality

- (a) may include the allowances referred to in section 359(2), and
- (b) may include the amounts referred to in section 359(3).

**(8)** Section 354 does not apply to tax rates required to raise revenue needed to pay school board requisitions.

1995 c24 s50;1997 c19 s3

#### **Tax agreement**

**360(1)** A council may make a tax agreement with an operator of a public utility or of linear property who occupies the municipality's

property, including property under the direction, control and management of the municipality.

(2) Instead of paying the tax imposed under this Division and any other fees or charges payable to the municipality, the tax agreement may provide for an annual payment to the municipality by the operator calculated as provided in the agreement.

(3) A tax agreement must provide that the municipality accepts payment of the amount calculated under the agreement in place of the tax and other fees or charges specified in the agreement.

(4) If a tax agreement with the operator of a public utility that supplies fuel provides for the calculation of the payment as a percentage of the gross revenue of the public utility, that gross revenue is the aggregate of

$$gr + (qu.ns \times vpu)$$

where:

- “gr” is the gross revenue of the public utility for the year;
- “qu.ns” is the quantity of fuel in respect of which transportation service was provided during the year by means of the fuel distribution system of the provider of the public utility;
- “vpu” is the deemed value per unit quantity of fuel determined by the Alberta Utilities Commission for that year for the fuel in respect of which transportation service was so provided.

(4.1) If a tax agreement with the operator of a public utility that transports electricity by way of a transmission system, an electric distribution system, or both, provides for the calculation of the payment as a percentage of the gross revenue of the public utility, that gross revenue is

- (a) gr, or
- (b)  $gr + (qu.ns \times vpu)$ ,

where:

- “gr” is the gross revenue received by the public utility under its distribution tariff for the year;
- “qu.ns” is the quantity of electricity in respect of which system access service, electric distribution service, or both, were provided during the year

by means of the transmission system, the electric distribution system, or both, of the provider of the public utility;

“vpu” is the deemed value per unit quantity of electricity determined by the Alberta Utilities Commission for that year for the electricity in respect of which system access service, electric distribution service, or both, were so provided.

**(4.2)** In subsection (4.1), “electric distribution service”, “electric distribution system”, “electricity”, “system access service” and “transmission system” have the meanings given to them in the *Electric Utilities Act*.

**(5)** An agreement under this section with an operator who is subject to regulation by the Alberta Utilities Commission is of no effect unless it is approved by the Alberta Utilities Commission.

RSA 2000 cM-26 s360; 2007 cA-37.2 s82(17)

#### **Exemptions based on use of property**

**361** The following are exempt from taxation under this Division:

- (a) repealed 1996 c30 s27;
- (b) residences and farm buildings to the extent prescribed in the regulations;
- (c) environmental reserves, municipal reserves, school reserves, municipal and school reserves and other undeveloped property reserved for public utilities.

1994 cM-26.1 s361; 1996 c30 s27

#### **Exemptions for Government, churches and other bodies**

**362(1)** The following are exempt from taxation under this Division:

- (a) any interest held by the Crown in right of Alberta or Canada in property;
- (b) property held by a municipality, except the following:
  - (i) property from which the municipality earns revenue and which is not operated as a public benefit;
  - (ii) property that is operated as a public benefit but that has annual revenue that exceeds the annual operating costs;
  - (iii) an electric power system;
  - (iv) a telecommunications system;

- (v) a natural gas or propane system located in a hamlet, village, summer village, town or city or in a school district that is authorized under the *School Act* to impose taxes and has a population in excess of 500 people;
- (c) property, other than a student dormitory, used in connection with school purposes and held by
  - (i) the board of trustees of a school district, school division or regional division,
  - (i.1) the Regional authority for a Francophone Education Region established under the *School Act*,
  - (i.2) the operator of a charter school established under the *School Act*, or
  - (ii) the operator of a private school registered under the *School Act*;
- (d) property, other than a student dormitory, used in connection with educational purposes and held by any of the following:
  - (i) the board of governors of a university, technical institute or public college under the *Post-secondary Learning Act*;
  - (ii) the governing body of an educational institution affiliated with a university under the *Post-secondary Learning Act*;
  - (iii) a students association or graduate students association of a university under the *Post-secondary Learning Act*;
  - (iv) a students association of a technical institute or public college under the *Post-secondary Learning Act*;
  - (v) the board of governors of the Banff Centre under the *Post-secondary Learning Act*;
- (e) property, other than a student dormitory, used in connection with hospital purposes and held by a hospital board that receives financial assistance from the Crown;
- (f) property held by a regional services commission;
- (g) repealed by RSA 2000;

- (g.1) property used in connection with health region purposes and held by a health region under the *Regional Health Authorities Act* that receives financial assistance from the Crown under any Act;
- (h) property used in connection with nursing home purposes and held by a nursing home administered under the *Nursing Homes Act*;
- (i) repealed 1998 c24 s29;
- (j) property used in connection with library purposes and held by a library board established under the *Libraries Act*;
- (k) property held by a religious body and used chiefly for divine service, public worship or religious education and any parcel of land that is held by the religious body and used only as a parking area in connection with those purposes;
- (l) property consisting of any of the following:
  - (i) a parcel of land, to a maximum of 10 hectares, that is used as a cemetery as defined in the *Cemeteries Act*;
  - (ii) any additional land that has been conveyed by the owner of the cemetery to individuals to be used as burial sites;
  - (iii) any improvement on land described in subclause (i) or (ii) that is used for burial purposes;
- (m) property held by
  - (i) a foundation constituted under the *Senior Citizens Housing Act*, RSA 1980 cS-13, before July 1, 1994, or
  - (ii) a management body established under the *Alberta Housing Act*,  
  
and used to provide senior citizens with lodge accommodation as defined in the *Alberta Housing Act*;
- (n) property that is
  - (i) owned by a municipality and held by a non-profit organization in an official capacity on behalf of the municipality,



- (ii) held by a non-profit organization and used solely for community games, sports, athletics or recreation for the benefit of the general public,
- (iii) used for a charitable or benevolent purpose that is for the benefit of the general public, and owned by
  - (A) the Crown in right of Alberta or Canada, a municipality or any other body that is exempt from taxation under this Division and held by a non-profit organization, or
  - (B) by a non-profit organization,
- (iv) held by a non-profit organization and used to provide senior citizens with lodge accommodation as defined in the *Alberta Housing Act*, or
- (v) held by and used in connection with a society as defined in the *Agricultural Societies Act* or with a community association as defined in the regulations,

and that meets the qualifications and conditions in the regulations and any other property that is described and that meets the qualifications and conditions in the regulations;

- (o) property
  - (i) owned by a municipality and used solely for the operation of an airport by the municipality, or
  - (ii) held under a lease, licence or permit from a municipality and used solely for the operation of an airport by the lessee, licensee or permittee;
- (p) a municipal seed cleaning plant constructed under an agreement authorized by section 7 of the *Agricultural Service Board Act*, to the extent of 2/3 of the assessment prepared under Part 9 for the plant, but not including the land attributable to the plant.

**(2)** Except for properties described in subsection (1)(n)(i), (ii) or (iv), a council may by bylaw make any property that is exempt from taxation under subsection (1)(n) subject to taxation under this Division to any extent the council considers appropriate.

**(3)** A council proposing to pass a bylaw under subsection (2) must notify, in writing, any person or group that will be affected of the proposed bylaw.

(4) A bylaw under subsection (2) has no effect until one year after it is passed.

RSA 2000 cM-26 s362;2003 cP-19.5 s142

**Exempt property that can be made taxable**

**363(1)** The following are exempt from taxation under this Division:

- (a) property held by and used in connection with Ducks Unlimited (Canada) under a lease, licence or permit from the Crown in right of Alberta or Canada;
- (b) property held by and used in connection with
  - (i) the Canadian Hostelling Association -- Northern Alberta District,
  - (ii) the Southern Alberta Hostelling Association,
  - (iii) Hostelling International -- Canada -- Northern Alberta, or
  - (iv) Hostelling International -- Canada -- Southern Alberta,unless the property is operated for profit or gain;
- (c) property held by and used in connection with a branch or local unit of the Royal Canadian Legion, the Army, Navy and Air Force Veterans in Canada or other organization of former members of any allied forces;
- (d) student dormitories.

(2) A council may by bylaw make any property listed in subsection (1)(a), (b) or (c) subject to taxation under this Division to any extent the council considers appropriate.

(3) A council may by bylaw make any property referred to in subsection (1)(d) subject to taxation to any extent the council considers appropriate other than for the purpose of raising revenue needed to pay the requisitions referred to in section 326(a).

(4) A council proposing to pass a bylaw under subsection (2) must notify, in writing, the person or group that will be affected of the proposed bylaw.

(5) A bylaw under subsection (2) has no effect until the expiration of one year after it is passed.

1994 cM-26.1 s363;1995 c24 s52;1996 c30 s29;1999 c11 s18

**Exemptions granted by bylaw**

**364(1)** A council may by bylaw exempt from taxation under this Division property held by a non-profit organization.

**(1.1)** A council may by bylaw exempt from taxation under this Division machinery and equipment used for manufacturing or processing.

**(2)** Property is exempt under this section to any extent the council considers appropriate.

1994 cM-26.1 s364;1995 c24 s53

**Licensed premises**

**365(1)** Property that is licensed under the *Gaming and Liquor Act* is not exempt from taxation under this Division, despite sections 351(1)(b) and 361 to 364 and any other Act.

**(2)** Despite subsection (1), property listed in section 362(1)(n) in respect of which a licence that is specified in the regulations has been issued is exempt from taxation under this Division.

1994 cM-26.1 s365;1995 c24 s54;1996 cG-0.5 s135;1996 c30 s30;  
1998 c24 s30

**Grants in place of taxes**

**366(1)** Each year a municipality may apply to the Crown for a grant if there is property in the municipality that the Crown has an interest in.

**(2)** The Crown may pay to the municipality a grant not exceeding the amount that would be recoverable by the municipality if the property that the Crown has an interest in were not exempt from taxation under this Division.

**(3)** When calculating a grant under this section, the following must not be considered as Crown property unless subsection (4) applies:

- (a) property listed in section 298;
- (b) museums and historical sites;
- (c) public works reserves;
- (d) property used in connection with academic, trade, forestry or agricultural schools, colleges or universities, including student dormitories;
- (e) property used in connection with hospitals and institutions for mentally disabled persons;

- (f) property owned by an agent of the Crown in respect of which another enactment provides for payment of a grant in place of a property tax;
  - (g) property in respect of which the Crown is not the assessed person.
- (4) If any of the property listed in subsection (3) is a single family residence, the property must be considered as Crown property when calculating a grant under this section.
- (5) The Crown may pay a grant under this section in respect of property referred to in subsection (3)(g) if in the Crown's opinion it is appropriate to do so.

1994 cM-26.1 s366;1996 c30 s31

#### **Property that is partly exempt and partly taxable**

**367** A property may contain one or more parts that are exempt from taxation under this Division, but the taxes that are imposed against the taxable part of the property under this Division are recoverable against the entire property.

1994 cM-26.1 s367

#### **Changes in taxable status of property**

**368(1)** An exempt property or part of an exempt property becomes taxable if

- (a) the use of the property changes to one that does not qualify for the exemption, or
  - (b) the occupant of the property changes to one who does not qualify for the exemption.
- (2) A taxable property or part of a taxable property becomes exempt if
- (a) the use of the property changes to one that qualifies for the exemption, or
  - (b) the occupant of the property changes to one who qualifies for the exemption.
- (3) If the taxable status of property changes, a tax imposed in respect of it must be prorated so that the tax is payable only for the part of the year in which the property, or part of it, is not exempt.
- (4) When a designated manufactured home is moved out of a municipality,
- (a) it becomes exempt from taxation by that municipality when it is moved, and

- (b) it becomes taxable by another municipality when it is located in that other municipality.

1994 cM-26.1 s368;1996 c30 s32;1998 c24 s31

#### **Supplementary property tax bylaw**

**369(1)** If in any year a council passes a bylaw authorizing supplementary assessments to be prepared in respect of property, the council must, in the same year, pass a bylaw authorizing it to impose a supplementary tax in respect of that property.

**(2)** A council that passes a bylaw referred to in subsection (1) must use the tax rates set by its property tax bylaw as the supplementary tax rates to be imposed.

**(2.1)** Despite subsection (2), the tax rates required to raise the revenue to pay requisitions referred to in sections 192 and 194 of the *School Act* must not be applied as supplementary tax rates.

**(3)** The municipality must prepare a supplementary property tax roll, which may be a continuation of the supplementary property assessment roll prepared under Part 9 or may be separate from that roll.

**(4)** A supplementary property tax roll must show

- (a) the same information that is required to be shown on the property tax roll, and
- (b) the date for determining the tax that may be imposed under the supplementary property tax bylaw.

**(5)** Sections 327(4), 328, 330 and 331 apply in respect of a supplementary property tax roll.

**(6)** The municipality must

- (a) prepare supplementary property tax notices for all taxable property shown on the supplementary property tax roll of the municipality, and
- (b) send the supplementary property tax notices to the persons liable to pay the taxes.

**(7)** Sections 333(4), 334, 335, 336, 337 and 338 apply in respect of supplementary property tax notices.

1994 cM-26.1 s369;1995 c24 s55

#### **Regulations**

**370** The Minister may make regulations

- (a) prescribing the extent to which residences and farm buildings are exempt from taxation under this Division;

- (b) respecting the calculation of a tax rate to be imposed on linear property;
- (c) describing other property that is exempt from taxation pursuant to section 362(1)(n), and respecting the qualifications and conditions required for the purposes of section 362(1)(n);
- (c.1) respecting tax rolls and tax notices including, without limitation, regulations
  - (i) respecting the information to be shown on a tax roll and a tax notice;
  - (ii) providing for the method of determining the person liable to pay a property or other tax imposed under this Part;
  - (iii) respecting the sending of tax notices;
- (d) specifying licences for the purposes of section 365(2);
- (e) defining a community association for the purposes of this Act.

RSA 2000 cM-26 s370;2005 c14 s13

### **Division 3 Business Tax**

#### **Business tax bylaw**

**371(1)** Each council may pass a business tax bylaw.

**(2)** A business tax bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year.

1994 cM-26.1 s371

#### **Taxable business**

**372(1)** The business tax bylaw authorizes the council to impose a tax in respect of all businesses operating in the municipality except businesses that are exempt in accordance with that bylaw.

**(2)** The tax must not be imposed in respect of a business that is exempt under section 351, 375 or 376.

1994 cM-26.1 s372

#### **Person liable to pay business tax**

**373(1)** A tax imposed under this Division must be paid by the person who operates the business.

(2) A person who purchases a business or in any other manner becomes liable to be shown on the tax roll as a taxpayer must give the municipality written notice of a mailing address to which notices under this Division may be sent.

1994 cM-26.1 s373

**Contents of business tax bylaw**

**374(1)** The business tax bylaw must

- (a) require assessments of businesses operating in the municipality to be prepared and recorded on a business assessment roll;
- (b) specify one or more of the following methods of assessment as the method or methods to be used to prepare the assessments:
  - (i) assessment based on a percentage of the gross annual rental value of the premises;
  - (i.1) assessment based on a percentage of the net annual rental value of the premises;
  - (ii) assessment based on storage capacity of the premises occupied for the purposes of the business;
  - (iii) assessment based on floor space, being the area of all of the floors in a building and the area outside the building that are occupied for the purposes of that business;
  - (iv) assessment based on a percentage of the assessment prepared under Part 9 for the premises occupied for the purposes of the business;
- (c) specify the basis on which a business tax may be imposed by prescribing the following:
  - (i) for the assessment method referred to in clause (b)(i), the percentage of the gross annual rental value;
  - (i.1) for the assessment method referred to in clause (b)(i.1), the percentage of the net annual rental value;
  - (ii) for the assessment method referred to in clause (b)(ii), the dollar rate per unit of storage capacity;
  - (iii) for the assessment method referred to in clause (b)(iii), the dollar rate per unit of floor space;
  - (iv) for the assessment method referred to in clause (b)(iv), the percentage of the assessment;

- (d) establish a procedure for prorating and rebating business taxes.

**(2)** A business tax bylaw may

- (a) establish classes of business for the purpose of grouping businesses,
- (b) specify classes of business that are exempt from taxation under this Division,
- (c) require that taxes imposed under this Division be paid by instalments, or
- (d) include any other information considered appropriate by the municipality.

**(3)** A business tax bylaw may provide that when a lessee who is liable to pay the tax imposed under this Division in respect of any leased premises sublets the whole or part of the premises, the municipality may require the lessee or the sub-lessee to pay the tax in respect of the whole or part of the premises.

1994 cM-26.1 s374;1999 c11 s19

**Assessment not required**

**374.1** Despite section 374(1)(a), a municipality is not required to prepare an assessment for any business in a class of business that is exempt from taxation under the business tax bylaw.

1998 c24 s33

**Exempt businesses**

**375** The following are exempt from taxation under this Division:

- (a) a business operated by the Crown;
- (b) an airport operated by a regional airports authority created under section 5(2) of the *Regional Airports Authorities Act*;
- (c) property
  - (i) owned by a municipality and used solely for the operation of an airport by the municipality, or
  - (ii) held under a lease, licence or permit from a municipality and used solely for the operation of an airport by the lessee, licensee or permittee;
- (d) a business operated by a non-profit organization on property that is exempt from taxation under section 362(1)(n).

1994 cM-26.1 s375;1995 c24 s57;1998 c24 s34



**Exemption when tax is payable under Division 2**

**376(1)** When machinery and equipment or linear property is located on premises occupied for the purposes of a business and a property tax has been imposed in respect of the machinery and equipment or linear property under Division 2 of this Part in any year, the premises on which that property is located are exempt from taxation under this Division in that year.

(2) If in any year the activities that result from the operation of the machinery and equipment or linear property are not the chief business carried on at the premises, the premises on which that property is located are not exempt from taxation under this Division in that year.

1994 cM-26.1 s376

**Business tax rate bylaw**

**377(1)** Each council that has passed a business tax bylaw must pass a business tax rate bylaw annually.

(2) The business tax rate bylaw must set a business tax rate.

(3) If the business tax bylaw establishes classes of business, the business tax rate bylaw must set a business tax rate for each class.

(4) The business tax rate may be different for each class of business established by the business tax bylaw.

(5) The tax rates set by the business tax rate bylaw must not be amended after the municipality sends the tax notices to the taxpayers.

1994 cM-26.1 s377

**Calculating amount of tax**

**378** The amount of tax to be imposed under this Division in respect of a business is calculated by multiplying the assessment for the business by the tax rate to be imposed on that business.

1994 cM-26.1 s378

**Supplementary business tax bylaw**

**379(1)** If in any year a council passes a bylaw authorizing supplementary assessments to be prepared in respect of businesses, the council must, in the same year, pass a bylaw authorizing it to impose a supplementary tax in respect of those businesses.

(2) A council that passes a bylaw referred to in subsection (1) must use the tax rates set by its business tax rate bylaw as the supplementary tax rates to be imposed.

(3) The supplementary business tax must be imposed

- (a) on each person who operates a business for a temporary period and whose name is not entered on the business tax roll,
  - (b) on each person who moves into new premises or opens new premises or branches of an existing business, although the person's name is entered on the business tax roll,
  - (c) on each person who begins operating a business and whose name is not entered on the business tax roll, and
  - (d) on each person who increases the storage capacity or floor space of the premises occupied for the purposes of a business after the business tax roll has been prepared.
- (4) The municipality must prepare a supplementary business tax roll, which may be a continuation of the supplementary business assessment roll or may be separate from that roll.
- (5) A supplementary business tax roll must show
- (a) the same information that is required to be shown on the business tax roll, and
  - (b) the date for determining the tax that may be imposed under the supplementary business tax bylaw.
- (6) Sections 327(4), 328, 330 and 331 apply in respect of a supplementary business tax roll.
- (7) The municipality must
- (a) prepare supplementary business tax notices for all taxable businesses shown on the supplementary business tax roll of the municipality, and
  - (b) send the supplementary business tax notices to the persons liable to pay the taxes.
- (8) Sections 333(4), 334, 335, 336, 337 and 338 apply in respect of supplementary business tax notices.

1994 cM-26.1 s379

**Grants in place of taxes**

- 380(1)** Each year a municipality may apply to the Crown for a grant if there is a business in the municipality operated by the Crown.
- (2) The Crown may pay to the municipality a grant not exceeding the amount that would be recoverable by the municipality if the

business operated by the Crown were not exempt from taxation under this Division.

1994 cM-26.1 s380

## **Division 4 Business Revitalization Zone Tax**

### **Regulations**

**381** The Minister may make regulations respecting a business revitalization zone tax.

1994 cM-26.1 s381

## **Division 4.1 Community Revitalization Levy**

### **Definitions**

**381.1** In this Division,

- (a) “incremental assessed value” means the increase in the assessed value of property located in a community revitalization levy area after the date the community revitalization levy bylaw is approved by the Lieutenant Governor in Council under section 381.2(3);
- (b) “levy” means a community revitalization levy imposed under section 381.2(2).

2005 c14 s14

### **Community revitalization levy bylaw**

**381.2(1)** Each council may pass a community revitalization levy bylaw.

**(2)** A community revitalization levy bylaw authorizes the council to impose a levy in respect of the incremental assessed value of property in a community revitalization levy area to raise revenue to be used toward the payment of infrastructure and other costs associated with the redevelopment of property in the community revitalization levy area.

**(3)** A community revitalization levy bylaw has no effect unless it is approved by the Lieutenant Governor in Council.

**(4)** The Lieutenant Governor in Council may approve a community revitalization levy bylaw in whole or in part or with variations and subject to conditions.

2005 c14 s14

### **Person liable to pay levy**

**381.3** A levy imposed under this Division must be paid by the assessed persons of the property in the community revitalization levy area.

2005 c14 s14

**Incremental assessed value not subject to equalized assessment or requisition**

**381.4(1)** Subject to subsection (2), the incremental assessed value of property in a community revitalization levy area shall not be included for the purpose of calculating

- (a) an equalized assessment under Part 9, or
- (b) the amount of a requisition under Part 10.

**(2)** Subsection (1) applies in respect of property in a community revitalization levy area only for 20 years from the year in which the community revitalization levy bylaw is made or such shorter period as determined by the Lieutenant Governor in Council.

2005 c14 s14

**Regulations**

**381.5(1)** The Lieutenant Governor in Council may make regulations

- (a) establishing any area in Alberta as a community revitalization levy area;
- (b) respecting a levy including, without limitation, regulations respecting the minimum and maximum levy that may be imposed and the application of the levy;
- (c) respecting the assessment of property, including identifying or otherwise describing the assessed person in respect of the property, in a community revitalization levy area;
- (d) respecting assessment rolls, assessment notices, tax rolls and tax notices in respect of property in a community revitalization levy area;
- (e) respecting the application of any provision of this Act, with or without modification, to a community revitalization levy bylaw or a community revitalization levy, or both;
- (f) respecting any other matter necessary or advisable to carry out the intent and purpose of this Division.

**(2)** A regulation under subsection (1) may be specific to a municipality or general in its application.

2005 c14 s14

## Division 5 Special Tax

### Special tax bylaw

**382(1)** Each council may pass a special tax bylaw to raise revenue to pay for a specific service or purpose by imposing one or more of the following special taxes:

- (a) a waterworks tax;
- (b) a sewer tax;
- (c) a boulevard tax;
- (d) a dust treatment tax;
- (e) a paving tax;
- (f) a tax to cover the cost of repair and maintenance of roads, boulevards, sewer facilities and water facilities;
- (g) repealed 2008 cE-6.6 s55;
- (h) a tax to enable the municipality to provide incentives to health professionals to reside and practice their professions in the municipality;
- (i) a fire protection area tax;
- (j) a drainage ditch tax;
- (k) a tax to provide a supply of water for the residents of a hamlet;
- (l) a recreational services tax.

**(2)** A special tax bylaw must be passed annually.

RSA 2000 cM-26 s382;2008 cE-6.6 s55

### Taxable property

**383(1)** The special tax bylaw authorizes the council to impose the tax in respect of property in any area of the municipality that will benefit from the specific service or purpose stated in the bylaw.

**(2)** The tax must not be imposed in respect of property that is exempt under section 351.

1994 cM-26.1 s383

### Contents of special tax bylaw

**384** The special tax bylaw must

- (a) state the specific service or purpose for which the bylaw is passed,
- (b) describe the area of the municipality that will benefit from the service or purpose and in which the special tax is to be imposed,
- (c) state the estimated cost of the service or purpose, and
- (d) state whether the tax rate is to be based on
  - (i) the assessment prepared in accordance with Part 9,
  - (ii) each parcel of land,
  - (iii) each unit of frontage, or
  - (iv) each unit of area,

and set the tax rate to be imposed in each case.

1994 cM-26.1 s384

#### **Condition**

**385** A special tax bylaw must not be passed unless the estimated cost of the specific service or purpose for which the tax is imposed is included in the budget of the municipality as an estimated expenditure.

1994 cM-26.1 s385

#### **Use of revenue**

**386(1)** The revenue raised by a special tax bylaw must be applied to the specific service or purpose stated in the bylaw.

**(2)** If there is any excess revenue, the municipality must advertise the use to which it proposes to put the excess revenue.

1994 cM-26.1 s386

#### **Person liable to pay special tax**

**387** The person liable to pay the tax imposed in accordance with a special tax bylaw is the owner of the property in respect of which the tax is imposed.

1994 cM-26.1 s387;1999 c11 s20

## **Division 6 Well Drilling Equipment Tax**

#### **Well drilling equipment tax bylaw**

**388(1)** Each council may pass a well drilling equipment tax bylaw.

(2) The well drilling equipment tax bylaw authorizes the council to impose a tax in respect of equipment used to drill a well for which a licence is required under the *Oil and Gas Conservation Act*.

1994 cM-26.1 s388

#### **Person liable to pay the tax**

**389** A tax imposed under this Division must be paid by the person who holds the licence required under the *Oil and Gas Conservation Act* in respect of the well being drilled.

1994 cM-26.1 s389

#### **Calculation of the tax**

**390(1)** The Minister may make regulations prescribing the well drilling equipment tax rate.

(2) A tax imposed under this Division must be calculated in accordance with the tax rate prescribed under subsection (1).

1994 cM-26.1 s390

## **Division 7 Local Improvement Tax**

#### **Definition**

**391** In this Division, “local improvement” means a project

- (a) that the council considers to be of greater benefit to an area of the municipality than to the whole municipality, and
- (b) that is to be paid for in whole or in part by a tax imposed under this Division.

1994 cM-26.1 s391

#### **Petitioning rules**

**392(1)** Sections 222 to 226 apply to petitions under this Division, except as they are modified by this section.

(2) A petition is not a sufficient petition unless

- (a) it is signed by 2/3 of the owners who would be liable to pay the local improvement tax, and
- (b) the owners who sign the petition represent at least 1/2 of the value of the assessments prepared under Part 9 for the parcels of land in respect of which the tax will be imposed.

(3) If a parcel of land is owned by more than one owner, the owners are considered as one owner for the purpose of subsection (2).

(4) If a municipality, school division, school district or health region under the *Regional Health Authorities Act* is entitled to sign a petition under this Division, it may give notice to the council prior to or at the time the petition is presented to the council that its name and the assessment prepared for its land under Part 9 are not to be counted in determining the sufficiency of a petition under subsection (2), and the council must comply with the notice.

(5) If a corporation, church, organization, estate or other entity is entitled to sign a petition under this Division, the petition may be signed on its behalf by a person who

- (a) is at least 18 years old, and
- (b) produces on request a certificate authorizing the person to sign the petition.

1994 cM-26.1 s392;1994 cR-9.07 s25(24)

#### **Proposal of local improvement**

**393(1)** A council may on its own initiative propose a local improvement.

(2) A group of owners in a municipality may petition the council for a local improvement.

1994 cM-26.1 s393

#### **Local improvement plan**

**394** If a local improvement is proposed, the municipality must prepare a local improvement plan.

1994 cM-26.1 s394

#### **Contents of plan**

**395(1)** A local improvement plan must

- (a) describe the proposed local improvement and its location,
- (b) identify
  - (i) the parcels of land in respect of which the local improvement tax will be imposed, and
  - (ii) the person who will be liable to pay the local improvement tax,
- (c) state whether the tax rate is to be based on
  - (i) the assessment prepared in accordance with Part 9,
  - (ii) each parcel of land,
  - (iii) each unit of frontage, or



- (iv) each unit of area,
  - (d) include the estimated cost of the local improvement,
  - (e) state the period over which the cost of the local improvement will be spread,
  - (f) state the portion of the estimated cost of the local improvement proposed to be paid
    - (i) by the municipality,
    - (ii) from revenue raised by the local improvement tax, and
    - (iii) from other sources of revenue,
  - and
  - (g) include any other information the proponents of the local improvement consider necessary.
- (2) The estimated cost of a local improvement may include
- (a) the actual cost of buying land necessary for the local improvement,
  - (b) the capital cost of undertaking the local improvement,
  - (c) the cost of professional services needed for the local improvement,
  - (d) the cost of repaying any existing debt on a facility that is to be replaced or rehabilitated, and
  - (e) other expenses incidental to the undertaking of the local improvement and to the raising of revenue to pay for it.

1994 cM-26.1 s395

**Procedure after plan is prepared**

**396(1)** When a local improvement plan has been prepared, the municipality must send a notice to the persons who will be liable to pay the local improvement tax.

**(2)** A notice under subsection (1) must include a summary of the information included in the local improvement plan.

**(3)** Subject to subsection (3.1), if a petition objecting to the local improvement is filed with the chief administrative officer within 30 days from the notices' being sent under subsection (1) and the chief administrative officer declares the petition to be sufficient, the council must not proceed with the local improvement.

**(3.1)** The council may, after the expiry of one year after the petition is declared to be sufficient, re-notify in accordance with subsections (1) and (2) the persons who would be liable to pay the local improvement tax.

**(4)** If a sufficient petition objecting to the local improvement is not filed with the chief administrative officer within 30 days from sending the notices under subsection (1), the council may undertake the local improvement and impose the local improvement tax at any time in the 3 years following the sending of the notices.

**(5)** When a council is authorized under subsection (4) to undertake a local improvement and

- (a) the project has not been started, or
- (b) the project has been started but is not complete,

the council may impose the local improvement tax for one year, after which the tax must not be imposed until the local improvement has been completed or is operational.

1994 cM-26.1 s396;1995 c24 s58

#### **Local improvement tax bylaw**

**397(1)** A council must pass a local improvement tax bylaw in respect of each local improvement.

**(2)** A local improvement tax bylaw authorizes the council to impose a local improvement tax in respect of all land in a particular area of the municipality to raise revenue to pay for the local improvement that benefits that area of the municipality.

**(3)** Despite section 351(1), no land is exempt from taxation under this section.

1994 cM-26.1 s397

#### **Contents of bylaw**

**398(1)** A local improvement tax bylaw must

- (a) include all of the information required to be included in the local improvement plan,
- (b) provide for equal payments during each year in the period over which the cost of the local improvement will be spread,
- (c) set a uniform tax rate to be imposed on
  - (i) the assessment prepared in accordance with Part 9,
  - (ii) each parcel of land,

(iii) each unit of frontage, or

(iv) each unit of area,

based on the cost of the local improvement less any financial assistance provided to the municipality by the Crown in right of Canada or Alberta, and

(d) include any other information the council considers necessary.

**(2)** The local improvement tax bylaw may set the uniform tax rate based on estimated average costs throughout the municipality for a similar type of local improvement and that rate applies whether the actual cost of the local improvement is greater or less than the uniform tax rate.

1994 cM-26.1 s398

#### **Start-up of a local improvement**

**399** The undertaking of a local improvement may be started, the local improvement tax bylaw may be passed and debentures may be issued before or after the actual cost of the local improvement has been determined.

1994 cM-26.1 s399

#### **Person liable to pay local improvement tax**

**400** The person liable to pay the tax imposed in accordance with a local improvement tax bylaw is the owner of the parcel of land in respect of which the tax is imposed.

1994 cM-26.1 s400

#### **Paying off a local improvement tax**

**401(1)** The owner of a parcel of land in respect of which a local improvement tax is imposed may pay the tax at any time.

**(2)** If the local improvement tax rate is subsequently reduced under section 402 or 403, the council must refund to the owner the appropriate portion of the tax paid.

1994 cM-26.1 s401

#### **Variation of local improvement tax bylaw**

**402(1)** If, after a local improvement tax has been imposed, there is

- (a) a subdivision affecting a parcel of land, or
- (b) a consolidation of 2 or more parcels of land,

in respect of which a local improvement tax is payable, the council, with respect to future years, must revise the local improvement tax bylaw so that each of the new parcels of land bears an appropriate share of the local improvement tax.

- (2) If, after a local improvement tax has been imposed,
- (a) there is a change in a plan of subdivision affecting an area that had not previously been subject to a local improvement tax, and
  - (b) the council is of the opinion that as a result of the change the new parcels of land receive a benefit from the local improvement,

the council, with respect to future years, must revise the local improvement tax bylaw so that each benefitting parcel of land bears an appropriate share of the local improvement tax.

1994 cM-26.1 s402

#### **Variation of local improvement tax rate**

**403(1)** If, after a local improvement tax rate has been set, the council

- (a) receives financial assistance from the Crown in right of Canada or Alberta or from other sources that is greater than the amount estimated when the local improvement tax rate was set, or
- (b) refinances the debt created to pay for the local improvement at an interest rate lower than the rate estimated when the local improvement tax rate was set,

the council, with respect to future years, may revise the rate so that each benefitting parcel of land bears an appropriate share of the actual cost of the local improvement.

(2) If, after a local improvement tax rate has been set, an alteration is necessary following a complaint under Part 11 or an appeal under Part 12 that is sufficient to reduce or increase the revenue raised by the local improvement tax bylaw in any year by more than 5%, the council, with respect to future years, may revise the rate so that the local improvement tax bylaw will raise the revenue originally anticipated for those years.

(3) If, after a local improvement tax rate has been set, it is discovered that the actual cost of the local improvement is higher than the estimated cost on which the local improvement tax rate is based, the council may revise, once only over the life of the local improvement, the rate with respect to future years so that the local improvement tax bylaw will raise sufficient revenue to pay the actual cost of the local improvement.

1994 cM-26.1 s403;1999 c11 s21

**Unusual parcels**

**404** If some parcels of land in respect of which a local improvement tax is to be imposed appear to call for a smaller or larger proportionate share of the tax because they are corner lots or are differently sized or shaped from other parcels, those parcels may be assigned the number of units of measurement the council considers appropriate to ensure that they will bear a fair portion of the local improvement tax.

1994 cM-26.1 s404

**Municipality's share of the cost**

**405(1)** A council may by bylaw require the municipality to pay the cost of any part of a local improvement that the council considers to be of benefit to the whole municipality.

**(2)** A bylaw under subsection (1) must be advertised if the cost to be paid by the municipality exceeds 50% of the cost of the local improvement less any financial assistance provided to the municipality by the Crown in right of Canada or Alberta.

**(3)** If financial assistance is provided to the municipality by the Crown in right of Canada or Alberta for a local improvement, the council must apply the assistance to the cost of the local improvement.

1994 cM-26.1 s405

**Land required for local improvement**

**406(1)** If a parcel of land is required before a local improvement can be proceeded with, the council may agree with the owner of the parcel that in consideration of

- (a) the dedication or gift to the municipality of the parcel of land required, or
- (b) a release of or reduction in the owner's claim for compensation for the parcel of land,

the remainder of the owner's land is exempt from all or part of the local improvement tax that would otherwise be imposed.

**(2)** The tax roll referred to in section 327 must be prepared in accordance with an agreement under this section, despite anything to the contrary in this Act.

1994 cM-26.1 s406

**Exemption from local improvement tax**

**407(1)** If a sanitary or storm sewer or a water main is constructed along a road or constructed in addition to or as a replacement of an existing facility

- (a) along which it would not have been constructed except to reach some other area of the municipality, or
- (b) in order to provide capacity for future development and the existing sanitary and storm sewers and water mains are sufficient for the existing development in the area,

the council may exempt from taxation under the local improvement tax bylaw, to the extent the council considers fair, the parcels of land abutting the road or place.

**(2)** If a local improvement tax is imposed for a local improvement that replaces a similar type of local improvement,

- (a) the balance owing on the existing local improvement tax must be added to the cost of the new local improvement, or
- (b) the council must exempt the parcels of land in respect of which the existing local improvement tax is imposed from the tax that would be imposed for the new local improvement.

1994 cM-26.1 s407

### **Sewers**

**408(1)** A municipality may construct a local improvement for sewer if

- (a) the council approves the construction,
- (b) the construction is recommended by the Minister of Health or the medical health officer, and
- (c) the council considers it to be in the public interest to do so.

**(2)** The owners of the parcels of land that benefit from a local improvement for sewer have no right to petition against its construction.

RSA 2000 cM-26 s408;2013 c10 s37

### **Private connection to a local improvement**

**409(1)** If a local improvement for sewer or water has been constructed, the municipality may construct private connections from the local improvement to the street line if the council approves the construction.

**(2)** The cost of constructing a private connection must be imposed against the parcel of land that benefits from it and the owner of the parcel has no right to petition against its construction.

1994 cM-26.1 s409

## **Division 7.1 Community Aggregate Payment Levy**

### **Community aggregate payment levy bylaw**

**409.1(1)** Each council may pass a community aggregate payment levy bylaw.

**(2)** A community aggregate payment levy bylaw authorizes the council to impose a levy in respect of all sand and gravel businesses operating in the municipality to raise revenue to be used toward the payment of infrastructure and other costs in the municipality.

2005 c14 s15

### **Person liable to pay levy**

**409.2** A levy imposed under this Division must be paid by the persons who operate sand and gravel operations in the municipality.

2005 c14 s15

### **Regulations**

**409.3(1)** The Minister may make regulations

- (a) respecting a levy referred to in section 409.1(2), including, without limitation, regulations respecting the maximum levy that may be imposed and the application of the levy;
- (b) respecting the application of any provision of this Act, with or without modification, to a community aggregate payment levy bylaw or a community aggregate payment levy, or both;
- (c) respecting any other matter necessary or advisable to carry out the intent and purpose of this Division.

**(2)** A regulation under subsection (1) may be specific to a municipality or general in its application.

2005 c14 s15

## **Division 8 Recovery of Taxes Related to Land**

### **Definitions**

**410** In this Division,

- (a) “encumbrance” means an encumbrance as defined in the *Land Titles Act*;
- (b) “encumbrancee” means the owner of an encumbrance;

- (b.1) “parcel of land” means a parcel of land and the improvements on it;
- (c) “Registrar” means the Registrar, as defined in the *Land Titles Act*, of the appropriate Land Titles Office;
- (c.1) “remedial costs” means all expenses incurred by the Government of Alberta to perform work under an environmental protection order or an enforcement order issued under the *Environmental Protection and Enhancement Act*;
- (d) “reserve bid” means the minimum price at which a municipality is willing to sell a parcel of land at a public auction;
- (e) “tax” means a property tax, a community revitalization levy, a special tax, a local improvement tax or a community aggregate payment levy;
- (f) “tax recovery notification” means a notice, in writing, that part or all of the taxes imposed in respect of a parcel of land by a municipality are in arrears.

RSA 2000 cM-26 s410;2005 c14 s16

**Methods of recovering taxes in arrears**

**411(1)** A municipality may attempt to recover tax arrears in respect of a parcel of land

- (a) in accordance with this Division, and
- (b) subject to subsection (2), in accordance with any other Act or common law right.

**(2)** A municipality may start an action under subsection (1)(b) at any time before

- (a) the parcel is sold at a public auction under section 418, or
- (b) the parcel is disposed of in accordance with section 425,

whichever occurs first.

1994 cM-26.1 s411

**Tax arrears list**

**412(1)** A municipality must annually, not later than March 31,

- (a) prepare a tax arrears list showing the parcels of land in the municipality in respect of which there are tax arrears for more than one year,
- (b) send 2 copies of the tax arrears list to the Registrar,



- (b.1) send a copy of the tax arrears list to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*, and
- (c) post a copy of the tax arrears list in a place that is accessible to the public during regular business hours.

(2) A tax arrears list must not include a parcel of land in respect of which there is in existence a tax recovery notification from previous years, unless that notification has been removed from the certificate of title for that parcel.

(3) The municipality must notify the persons who are liable to pay the tax arrears that a tax arrears list has been prepared and sent to the Registrar.

RSA 2000 cM-26 s412;2007 cU-1.5 s73

#### **Tax recovery notification**

**413(1)** The Registrar must endorse on the certificate of title for each parcel of land shown on the tax arrears list a tax recovery notification.

(2) The Registrar must certify, on a copy of the tax arrears list, that tax recovery notifications have been endorsed in accordance with subsection (1) and return the certified copy of the tax arrears list to the municipality with a statement of the costs payable to the Land Titles Office by the municipality.

(3) The municipality is responsible for the payment of the costs referred to in subsection (2) but may add the costs to the taxes owing in respect of the parcels of land shown on the tax arrears list.

(4) The Registrar must not remove a tax recovery notification from a certificate of title until the municipality at whose request it was endorsed on the certificate of title requests its removal.

1994 cM-26.1 s413

#### **Removal of improvements**

**414** When a tax recovery notification has been endorsed on a certificate of title for a parcel of land, the person who is liable to pay the taxes must not remove from the parcel, unless the municipality at whose request the notification was endorsed on the certificate of title consents, any improvements for which that person is also liable to pay the taxes.

1994 cM-26.1 s414

#### **Right to pay tax arrears**

**415(1)** After a tax recovery notification has been endorsed on the certificate of title for a parcel of land, any person may pay the tax arrears in respect of the parcel.

(2) On payment of the tax arrears under subsection (1), the municipality must ask the Registrar to remove the tax recovery notification.

(3) Subject to section 423(3), a person may exercise the right under subsection (1) at any time before the municipality disposes of the parcel in accordance with section 425.

1994 cM-26.1 s415

#### **Right to collect rent to pay tax arrears**

**416(1)** After a tax recovery notification has been endorsed on the certificate of title for a parcel of land, the municipality may send a notice to any person who holds the parcel under a lease from the owner, requiring that person to pay the rent as it becomes due to the municipality until the tax arrears have been paid.

(2) Not less than 14 days before a municipality sends a notice under subsection (1), it must send a notice to the owner of the parcel of land advising the owner of the municipality's intention to proceed under subsection (1).

(2.1) When a parcel of land shown on a tax arrears list is land described in section 304(1)(c) in respect of another municipality, or in section 304(1)(d) or (e), the municipality may send a notice to any person who holds the parcel or a portion of it under a lease, licence or permit from the assessed person to pay the rent, licence fees or permit fees, as the case may be, to the municipality as they become due until the tax arrears have been paid.

(2.2) Not less than 14 days before a municipality sends a notice under subsection (2.1), it must send a notice to the assessed person advising the person of the municipality's intention to proceed under subsection (2.1).

(2.3) Where a parcel of land described in section 304(1)(c) is held under a lease, licence or permit from the Crown in right of Alberta,

- (a) the Crown must, on a quarterly basis, notify the municipality in which the parcel is located of any changes in the status of the lease, licence or permit, as the case may be, and
- (b) the municipality must send to the Crown that portion of the tax arrears list showing the parcels of land described in section 304(1)(c) that are held by the Crown.

(6) This section does not prevent the municipality from exercising any other right it has to collect the tax arrears.

1994 cM-26.1 s416;1998 c24 s36

**Warning of sale**

**417(1)** Not later than the August 1 following receipt of a copy of the tax arrears list, the Registrar must, in respect of each parcel of land shown on the tax arrears list, send a notice to

- (a) the owner of the parcel of land,
- (b) any person who has an interest in the parcel that is evidenced by a caveat registered by the Registrar, and
- (c) each encumbrancee shown on the certificate of title for the parcel.

**(2)** The notice must state

- (a) that if the tax arrears in respect of the parcel of land are not paid before March 31 in the next year, the municipality will offer the parcel for sale at a public auction, and
- (b) that the municipality may become the owner of the parcel after the public auction if the parcel is not sold at the public auction.

**(3)** The notice must be sent to the address shown on the records of the Land Titles Office for each person referred to in subsection (1).

1994 cM-26.1 s417;1995 c24 s61

**Offer of parcel for sale**

**418(1)** Each municipality must offer for sale at a public auction any parcel of land shown on its tax arrears list if the tax arrears are not paid.

**(2)** Unless subsection (4) applies, the public auction must be held in the period beginning on the date referred to in section 417(2)(a) and ending on March 31 of the year immediately following that date.

**(3)** Subsection (1) does not apply to a parcel in respect of which the municipality has started an action under section 411(2) to recover the tax arrears before the date of the public auction.

**(4)** The municipality may enter into an agreement with the owner of a parcel of land shown on its tax arrears list providing for the payment of the tax arrears over a period not exceeding 3 years, and in that event the parcel need not be offered for sale under subsection (1) until

- (a) the agreement has expired, or
- (b) the owner of the parcel breaches the agreement,

whichever occurs first.

1994 cM-26.1 s418;1995 c24 s62;1996 c30 s35

### **Reserve bid and conditions of sale**

**419** The council must set

- (a) for each parcel of land to be offered for sale at a public auction, a reserve bid that is as close as reasonably possible to the market value of the parcel, and
- (b) any conditions that apply to the sale.

1994 cM-26.1 s419

### **Right to possession**

**420(1)** From the date on which a parcel of land is offered for sale at a public auction, the municipality is entitled to possession of the parcel.

**(2)** For the purposes of obtaining possession of a parcel of land, a designated officer may enter the parcel and take possession of it for and in the name of the municipality and, if in so doing resistance is encountered, the municipality may apply to the Court of Queen's Bench for an order for the possession of the parcel.

RSA 2000 cM-26 s420;2009 c53 s119

### **Advertisement of public auction**

**421(1)** The municipality must advertise the public auction

- (a) in one issue of The Alberta Gazette, not less than 40 days and not more than 90 days before the date on which the public auction is to be held, and
- (b) in one issue of a newspaper having general circulation in the municipality, not less than 10 days and not more than 20 days before the date on which the public auction is to be held.

**(2)** The advertisement must specify the date, time and location of the public auction, the conditions of sale and a description of each parcel of land to be offered for sale.

**(3)** The advertisement must state that the municipality may, after the public auction, become the owner of any parcel of land not sold at the public auction.

**(4)** Not less than 4 weeks before the date of the public auction, the municipality must send a copy of the advertisement referred to in subsection (1)(a) to

- (a) the owner of each parcel of land to be offered for sale,

- (b) each person who has an interest in any parcel to be offered for sale that is evidenced by a caveat registered by the Registrar, and
- (c) each encumbrancee shown on the certificate of title for each parcel to be offered for sale.

1994 cM-26.1 s421;1995 c24 s63

#### **Adjournment of auction**

**422(1)** The municipality may adjourn the holding of a public auction to any date within 2 months after the advertised date.

**(2)** If a public auction is adjourned, the municipality must post a notice in a place that is accessible to the public during regular business hours, showing the new date on which the public auction is to be held.

**(3)** If a public auction is cancelled as a result of the tax arrears being paid, the municipality must post a notice in a place that is accessible to the public during regular business hours stating that the auction is cancelled.

1994 cM-26.1 s422

#### **Right to a clear title**

**423(1)** A person who purchases a parcel of land at a public auction acquires the land free of all encumbrances, except

- (a) encumbrances arising from claims of the Crown in right of Canada,
- (b) irrigation or drainage debentures,
- (c) caveats referred to in section 39(12) of the *Condominium Property Act*,
- (d) registered easements and instruments registered pursuant to section 69 of the *Land Titles Act*,
- (e) right of entry orders as defined in the *Surface Rights Act* registered under the *Land Titles Act*,
- (f) a notice of lien filed pursuant to section 38 of the *Rural Utilities Act*,
- (g) a notice of lien filed pursuant to section 20 of the *Rural Electrification Loan Act*, and
- (h) liens registered pursuant to section 21 of the *Rural Electrification Long-term Financing Act*.

**(2)** A parcel of land is sold at a public auction when the person who is acting as the auctioneer declares the parcel sold.

(3) There is no right under section 415 to pay the tax arrears in respect of a parcel after it is declared sold.

1994 cM-26.1 s423;1996 c12 s64;1998 c24 s37;1999 c11 s22

#### **Transfer of parcel to municipality**

**424(1)** The municipality at whose request a tax recovery notification was endorsed on the certificate of title for a parcel of land may become the owner of the parcel after the public auction, if the parcel is not sold at the public auction.

(2) If the municipality wishes to become the owner of the parcel of land, it must request the Registrar to cancel the existing certificate of title for the parcel of land and issue a certificate of title in the name of the municipality.

(3) A municipality that becomes the owner of a parcel of land pursuant to subsection (1) acquires the land free of all encumbrances, except

- (a) encumbrances arising from claims of the Crown in right of Canada,
- (b) irrigation or drainage debentures,
- (c) registered easements and instruments registered pursuant to section 69 of the *Land Titles Act*,
- (d) right of entry orders as defined in the *Surface Rights Act* registered under the *Land Titles Act*,
- (e) a notice of lien filed pursuant to section 38 of the *Rural Utilities Act*,
- (f) a notice of lien filed pursuant to section 20 of the *Rural Electrification Loan Act*, and
- (g) liens registered pursuant to section 21 of the *Rural Electrification Long-term Financing Act*.

(4) A certificate of title issued to the municipality under this section must be marked "Tax Forfeiture" by the Registrar.

1994 cM-26.1 s424;1995 c24 s64;1996 c30 s36;1998 c24 s38;  
1999 c11 s23

#### **Right to dispose of parcel**

**425(1)** A municipality that becomes the owner of a parcel of land pursuant to section 424 may dispose of the parcel

- (a) by selling it at a price that is as close as reasonably possible to the market value of the parcel, or

(b) by depositing in the account referred to in section 427(1)(a) an amount of money equal to the price at which the municipality would be willing to sell the parcel under clause (a).

(2) The municipality may grant a lease, licence or permit in respect of the parcel.

(3) Repealed 1995 c24 s65.

(4) If a parcel of land is disposed of under subsection (1), the municipality must request the Registrar to delete the words “Tax Forfeiture” from the certificate of title issued in the name of the municipality for the parcel.

1994 cM-26.1 s425;1995 c24 s65

#### **Minister’s authority to transfer parcel**

**425.1(1)** The Minister may administer, transfer to another Minister, transfer to the municipality in which the land is situated or, subject to section 425, dispose of any parcel of land acquired by the Minister under this Part or a predecessor of this Part.

(2) The Minister may cancel the tax arrears on any land referred to in subsection (1) and require the Registrar to remove the tax recovery notification caveat respecting those tax arrears.

1995 c24 s66

#### **Revival of title on payment of arrears**

**426(1)** If the tax arrears in respect of a parcel of land are paid after the municipality becomes the owner of the parcel under section 424 but before the municipality disposes of the parcel under section 425(1), the municipality must notify the Registrar.

(2) The Registrar must cancel the certificate of title issued under section 424(2) and revive the certificate of title that was cancelled under section 424(2).

(3) A certificate of title revived by the Registrar is subject

(a) to the same notifications, charges and encumbrances to which it would have been subject if it had not been cancelled under section 424(2), and

(b) to any estate, interest or encumbrance created while the parcel was registered in the name of the municipality.

1994 cM-26.1 s426;1996 c30 s37

#### **Separate account for sale proceeds**

**427(1)** The money paid for a parcel of land at a public auction or pursuant to section 425

- (a) must be deposited by the municipality in an account that is established solely for the purpose of depositing money from the sale or disposition of land under this Division, and
  - (b) must be paid out in accordance with this section and section 428.
- (2)** The following must be paid first and in the following order:
- (a) any remedial costs relating to the parcel;
  - (a.1) the tax arrears in respect of the parcel;
  - (b) any lawful expenses of the municipality in respect of the parcel;
  - (c) any expenses owing to the Crown that have been charged against the parcel of land under section 553;
  - (d) an administration fee of 5% of the amount paid for the parcel, payable to the municipality.
- (3)** If there is any money remaining after payment of the tax arrears and costs listed in subsection (2), the municipality must notify the previous owner that there is money remaining.
- (3.1)** Subject to subsection (3.3), if the municipality is satisfied that there are no debts that are secured by an encumbrance on the certificate of title for the parcel of land, the municipality may pay the money remaining to the previous owner.
- (3.2)** If the municipality is not satisfied that there are no debts that are secured by an encumbrance on the certificate of title for the parcel of land, the municipality must notify the previous owner that an application may be made under section 428(1) to recover all or part of the money.
- (3.3)** For the purposes of this Division, “previous owner” includes the Crown in right of Alberta if the municipality has been notified by the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* that the land has vested in the Crown, and any money remaining after payment of the tax arrears and costs set out in subsection (2) must be paid to the Minister responsible for the *Unclaimed Personal Property and Vested Property Act*.
- (4)** Money paid to a municipality under a lease, licence or permit granted under section 425(2) must be placed in the account referred to in subsection (1) and distributed in accordance with this section and section 428.



**Distribution of surplus sale proceeds**

**428(1)** A person may apply to the Court of Queen's Bench for an order declaring that the person is entitled to a part of the money in the account referred to in section 427(1).

**(2)** An application under this section must be made within 10 years after

- (a) the date of the public auction, if the parcel was sold at a public auction, or
- (b) the date of a sale under section 425, if the parcel was sold at a sale under that section.

**(3)** The Court must decide if notice must be given to any person other than the applicant and in that event the hearing must be adjourned to allow notice to be given.

**(4)** In making an order, the Court must have regard to the priorities in which sale proceeds are distributed in a foreclosure action.

RSA 2000 cM-26 s428;2009 c53 s119

**Payment of undistributed money to municipality**

**428.1** If no application is made under section 428 within the 10-year period referred to in section 428(2), the municipality may, for any purpose, use the money deposited in accordance with section 427 that remains undistributed.

1995 c24 s68

**Transfer to municipality after 15 years**

**428.2(1)** Despite anything in this Division, where a parcel of land has been offered for sale but not sold at a public auction and the certificate of title for the parcel has been marked "Tax Forfeiture" by the Registrar, the municipality may request the Registrar to cancel the existing certificate of title for the parcel of land and issue a certificate of title in the name of the municipality on the expiry of 15 years following the date of the public auction.

**(1.1)** This section does not apply to land respecting which the Minister responsible for the *Unclaimed Personal Property and Vested Property Act* has notified the municipality that the land has vested in the Crown.

**(2)** On the issuance of a certificate of title in the name of the municipality, all responsibilities of the municipality under this Division to the previous owner of the parcel of land cease.

**(3)** Where a certificate of title is issued to a municipality under subsection (1) and there are remedial costs owing in respect of the parcel of land, the municipality must deposit in the Environmental

Protection and Enhancement Fund established under the *Environmental Protection and Enhancement Act* the lesser of

- (a) the fair market value of the parcel of land, and
- (b) the amount of the remedial costs.

**(4)** A municipality that becomes the owner of a parcel of land pursuant to subsection (1) acquires the land free of all encumbrances, except

- (a) encumbrances arising from claims of the Crown in right of Canada,
- (b) irrigation or drainage debentures,
- (c) registered easements and instruments registered pursuant to section 69 of the *Land Titles Act*,
- (d) right of entry orders as defined in the *Surface Rights Act* registered under the *Land Titles Act*,
- (e) a notice of lien filed pursuant to section 38 of the *Rural Utilities Act*,
- (f) a notice of lien filed pursuant to section 20 of the *Rural Electrification Loan Act*, and
- (g) liens registered pursuant to section 21 of the *Rural Electrification Long-term Financing Act*.

RSA 2000 cM-26 s428.2;2007 cU-1.5 s73

#### **Prohibited bidding and buying**

**429(1)** When a municipality holds a public auction or another sale under section 425, the auctioneer, the councillors, the chief administrative officer and the designated officers and employees of the municipality must not bid for or buy, or act as an agent in buying, any parcel of land offered for sale, unless subsection (2) applies.

**(2)** A municipality may direct a designated officer or employee of the municipality to bid for or buy a parcel of land that the municipality wishes to become the owner of.

1994 cM-26.1 s429

#### **Right to place tax arrears on new parcels of land**

**429.1** When there are tax arrears in respect of a parcel of land that is to be subdivided, the municipality may distribute the tax arrears and any taxes that may be imposed in respect of the parcel among the parcels of land that are created by the subdivision in a manner the municipality considers appropriate.

1995 c24 s69

**Minerals**

**430** If, as a result of proceedings under this Act or any other Act providing for the forfeiture of land or minerals, or both, for arrears of taxes, minerals are vested in the Minister or in a municipality that later passed or passes to the control of the Minister, the minerals are the property of the Crown and no person has any claim to or interest in them, despite anything in this Act or the Act under which the minerals were forfeited.

1994 cM-26.1 s430

**Acquisition of minerals**

**431(1)** In respect of any parcel of land or minerals

- (a) acquired by a municipality before or after March 5, 1948, pursuant to a tax recovery notification or caveat endorsed on the certificate of title by the Registrar, and
- (b) subsequently registered in the name of the municipality,

the municipality is deemed to have taken or to take title only to those minerals that the municipality was authorized and empowered to assess at the time of the issuance of the certificate of title in the name of the municipality, and any corrections to the records of any Land Titles Office made before March 5, 1948 to effect this purpose are hereby confirmed and validated.

**(2)** A municipality must not transfer, lease, mortgage or otherwise dispose of or deal in any minerals or any interest in minerals without first obtaining the written consent of the Minister, and any disposition or dealing made without the consent of the Minister has no effect.

**(3)** Any certificate of title issued in the name of a municipality before or after March 5, 1948 to or including any minerals, other than minerals that the municipality was authorized and empowered to assess at the time of the acquisition, may be corrected under the *Land Titles Act* to limit the certificate of title to the minerals the municipality was authorized and empowered to acquire, and all other necessary corrections may be made under the *Land Titles Act* on other certificates of title.

**(4)** This section does not affect an interest in minerals acquired by any person from a municipality before March 5, 1948.

1994 cM-26.1 s431

**Right of way**

**432** After the date on which a municipality becomes the owner of a parcel of land under section 424, if an application is made to a municipality

- (a) for a right of entry by an operator entitled to apply for a right of entry order under the *Surface Rights Act*, or
- (b) for a right of way for a railway, pipeline, transmission line, pole line, conduit, irrigation or drainage ditch or other similar purpose, by an applicant entitled to expropriate for that purpose under any Act,

the municipality may grant the right of entry or right of way.

1994 cM-26.1 s432

#### **When parcel becomes part of another municipality**

**433(1)** If proceedings affecting a parcel of land have been started under this Division and the parcel of land later becomes part of another municipality, the proceedings must be continued by that municipality as if the parcel had always been included in it, and that municipality must pay to the municipality that started the proceedings, to the extent that municipality receives sufficient money to do so, the costs incurred by the original municipality in connection with the parcel.

**(2)** When a parcel of land becomes part of another municipality, the Registrar must, on receipt of an order of the Minister, issue a new certificate of title showing the parcel to be registered in the name of that municipality.

1994 cM-26.1 s433

#### **Non-liability for condition of land**

**434** If the Minister becomes the owner of a parcel of land pursuant to this Division, the Minister is not liable in respect of the state and condition of the parcel or any improvements to it.

1994 cM-26.1 s434

#### **Action for condition of land prohibited**

**434.1(1)** No action for damages may be commenced against a municipality with respect to the state and condition of a parcel of land, or any improvements to it, shown on the tax arrears list of the municipality unless

- (a) after the date on which the municipality is entitled to possession of the parcel under section 420, or
- (b) after the date on which the municipality becomes the owner of the parcel under section 424,

the municipality releases on that parcel a new or additional substance into the environment that may cause, is causing or has caused an adverse effect or the municipality aggravates the adverse effect of the release of a substance into the environment on that parcel.

(2) Subsection (1) does not relieve a municipality of liability respecting a parcel of land, or any improvement to it, that was owned by the municipality before the parcel was placed on the municipality's tax arrears list.

1996 c30 s40

#### **Continuation of proceedings**

**435(1)** With respect to Edmonton, Calgary and Medicine Hat, all proceedings taken or that were required to be taken under any predecessor of this Act, as modified or varied by any special provisions of the charters of the respective cities, must be continued or taken, as the case may be, under this Division wherever possible.

(2) The Minister may make regulations or orders for the purpose of overcoming any procedural or other difficulty occasioned by the differences between this Division and the charters of Edmonton, Calgary and Medicine Hat.

1994 cM-26.1 s435

#### **Deemed compliance with Act**

**436** Any municipality that acquired land under a predecessor of this Act is deemed to have complied with the requirements of that Act.

1994 cM-26.1 s436

### **Division 8.1 Recovery of Taxes Related to Designated Manufactured Homes**

#### **Definitions**

**436.01** In this Division,

- (a) "financing change statement" means a financing change statement as defined in the *Personal Property Security Act*;
- (b) "financing statement" means a financing statement as defined in the *Personal Property Security Act*;
- (c) "register", except where the context otherwise requires, means to register by means of a financing statement in the Registry in accordance with the *Personal Property Security Act* and the regulations made under that Act;
- (d) "Registry" means the Personal Property Registry;
- (e) "reserve bid" means the minimum price at which a municipality is willing to sell a designated manufactured home at a public auction;

- (f) “security interest” means a security interest as defined in the *Personal Property Security Act*;
- (g) “tax” means a property tax or a community revitalization levy imposed in respect of property referred to in section 304(1)(j)(i) or (k);
- (h) “tax arrears list” means a tax arrears list prepared by a municipality under section 436.03(1)(a);
- (i) “tax recovery lien” means a charge to secure the amount of taxes owing to a municipality in respect of a designated manufactured home.

RSA 2000 cM-26 s436.01;2005 c14 s17

#### **Methods of recovering taxes in arrears**

**436.02(1)** A municipality may attempt to recover tax arrears in respect of a designated manufactured home

- (a) in accordance with this Division, or
- (b) subject to subsection (2), in accordance with Division 9 or with any other Act or common law right.

**(2)** A municipality may start an action under subsection (1)(b) at any time before

- (a) the designated manufactured home is sold at a public auction under section 436.09, or
- (b) the designated manufactured home is disposed of in accordance with section 436.15(a),

whichever occurs first.

1998 c24 s40

#### **Tax arrears list**

**436.03(1)** A municipality must annually, not later than March 31,

- (a) prepare a tax arrears list that shows the designated manufactured homes in the municipality in respect of which there are tax arrears for more than one year, and that may also show the designated manufactured homes in the municipality in respect of which there are tax arrears for less than one year,
- (b) register a tax recovery lien against each designated manufactured home shown on the tax arrears list, and
- (c) post a copy of the tax arrears list in a place that is accessible to the public during regular business hours.

(2) A municipality must not register a tax recovery lien against a designated manufactured home in respect of which there exists a tax recovery lien registered from previous years unless that lien has first been discharged.

(3) If a subsequent tax recovery lien is registered in error, it is deemed to be of no effect.

(4) The municipality must give written notice to the owner of each designated manufactured home shown on the tax arrears list that a tax recovery lien has been registered against the designated manufactured home.

(5) The municipality must give written notice to the owner of each manufactured home community containing one or more designated manufactured homes shown on the tax arrears list that a tax recovery lien has been registered against the designated manufactured home or homes.

1998 c24 s40

#### **Costs of recovery**

**436.04(1)** A municipality is responsible for the payment of the costs it incurs in carrying out the measures referred to in section 436.03, but it may add the costs to the tax roll in respect of the designated manufactured home shown on the tax arrears list.

(2) No person shall register a financing change statement to discharge the registration of a tax recovery lien against a designated manufactured home without the authorization of the municipality in whose favour the lien is registered.

(3) If a tax recovery lien is discharged in error, the municipality may, within 30 days after the discharge and without any administration fee charged by the Government of Alberta, re-register the tax recovery lien, which has the same effect as if the original tax recovery lien had not been discharged.

1998 c24 s40

#### **Removal of designated manufactured home or improvements**

**436.05** When a tax recovery lien has been registered against a designated manufactured home, no person shall remove from the site the designated manufactured home or any other improvements located on the site for which the owner of the designated manufactured home is also liable to pay the taxes, unless the municipality that registered the lien consents.

1998 c24 s40

#### **Right to pay tax arrears**

**436.06(1)** When a tax recovery lien has been registered against a designated manufactured home, any person may pay the tax arrears in respect of that designated manufactured home.

- (2) On payment of the tax arrears under subsection (1), the municipality must register a financing change statement to discharge the registration of the tax recovery lien.
- (3) A person may exercise the right under subsection (1) at any time before
- (a) the designated manufactured home is sold at a public auction under section 436.09, or
  - (b) the designated manufactured home is disposed of in accordance with section 436.15(a).

1998 c24 s40

**Right to collect rent to pay tax arrears**

**436.07(1)** When a tax recovery lien has been registered against a designated manufactured home, the municipality may send a written notice to any person who rents or leases the designated manufactured home from the owner of the designated manufactured home, requiring that person to pay the rent or lease payments, as the case may be, to the municipality until the tax arrears have been paid.

(2) Not less than 14 days before a municipality sends a notice under subsection (1), it must send a notice to the owner of the designated manufactured home advising the owner of the municipality's intention to proceed under subsection (1).

(3) The municipality must send a copy of the notice under subsection (2) to the owner of the manufactured home community where the designated manufactured home is located.

(4) This section does not prevent the municipality from exercising any other right it has to collect the tax arrears.

1998 c24 s40

**Warning of sale**

**436.08(1)** Not later than August 1 following preparation of the tax arrears list, the municipality must, in respect of each designated manufactured home shown on the tax arrears list, send a written notice to

- (a) the owner of the designated manufactured home,
- (b) the owner of the manufactured home community where the designated manufactured home is located, and
- (c) each person who has a security interest in or a lien, writ, charge or other encumbrance against the designated manufactured home as disclosed by a search of the



Registry using the serial number of the designated manufactured home.

(2) The notice must state that if the tax arrears in respect of the designated manufactured home are not paid before March 31 in the next year, the municipality will offer the designated manufactured home for sale at a public auction.

(3) The notice under subsection (1) must be sent to the address shown on the records of the Registry for each person referred to in subsection (1)(c).

1998 c24 s40;1999 c11 s25

#### **Offer of designated manufactured home for sale**

**436.09(1)** Each municipality must offer for sale at a public auction any designated manufactured home shown on its tax arrears list if the tax arrears are not paid.

(2) Unless subsection (4) applies, the public auction must be held in the period beginning on the date referred to in section 436.08(2) and ending on March 31 of the year immediately following that date.

(3) Subsection (1) does not apply to a designated manufactured home in respect of which the municipality has started an action under section 436.02(2) to recover the tax arrears before the date of the public auction.

(4) The municipality may enter into an agreement with the owner of a designated manufactured home shown on its tax arrears list providing for the payment of the tax arrears over a period not exceeding 3 years, and in that event the designated manufactured home need not be offered for sale under subsection (1) until

- (a) the agreement has expired, or
- (b) the owner of the designated manufactured home breaches the agreement,

whichever occurs first.

1998 c24 s40

#### **Reserve bid and conditions for sale**

**436.1** The council must set for each designated manufactured home to be offered for sale at a public auction,

- (a) a reserve bid that is as close as reasonably possible to the market value of the designated manufactured home, and
- (b) any conditions that apply to the sale.

1998 c24 s40

**Right to possession**

**436.11(1)** From the date on which a designated manufactured home is offered for sale at a public auction, the municipality is entitled to possession of the designated manufactured home.

(2) For the purpose of obtaining possession of a designated manufactured home, a designated officer may enter the designated manufactured home and take possession of it for and in the name of the municipality, and if in so doing the designated officer encounters resistance, the municipality may apply to the Court of Queen's Bench for an order for possession of the designated manufactured home.

RSA 2000 cM-26 s436.11;2009 c53 s119

**Advertisement of public auction**

**436.12(1)** The municipality must advertise the public auction in at least one issue of a newspaper having general circulation in the municipality, not less than 10 days and not more than 30 days before the date on which the public auction is to be held.

(2) The advertisement must specify the date, time and location of the public auction, the conditions of sale and a description of each designated manufactured home to be offered for sale.

(3) Not less than 4 weeks before the date of the public auction, the municipality must send a copy of the advertisement referred to in subsection (1) to each person referred to in section 436.08(1).

1998 c24 s40

**Adjournment of auction**

**436.13(1)** The municipality may adjourn the holding of a public auction to any date within 2 months after the advertised date.

(2) If a public auction is adjourned, the municipality must

- (a) post a notice in a place that is accessible to the public during regular business hours, showing the new date on which the public auction is to be held, and
- (b) send a copy of the notice to each person referred to in section 436.08(1).

(3) If a public auction is cancelled as a result of the payment of the tax arrears, the municipality must

- (a) post a notice in a place that is accessible to the public during regular business hours stating that the auction is cancelled, and

- (b) send a copy of the notice to each person referred to in section 436.08(1).

1998 c24 s40

**Unencumbered ownership**

**436.14(1)** A person who purchases a designated manufactured home at a public auction or pursuant to section 436.15(a) acquires the designated manufactured home free of all security interests, liens, writs, charges and other encumbrances, except encumbrances arising from claims of the Crown in right of Canada, and all obligations secured by the security interests, liens, writs, charges and other encumbrances are, as regards the purchaser, deemed performed.

**(2)** When a person purchases a designated manufactured home at a public auction or pursuant to section 436.15(a), the municipality must, in respect of any security interest in or lien, writ, charge or other encumbrance against the designated manufactured home that exists on the date of sale as disclosed by a search of the Registry using the serial number of the designated manufactured home, register a financing change statement

- (a) to amend the collateral description in the registration to exclude the designated manufactured home, or
- (b) if the designated manufactured home is the only collateral described in the registration, to discharge the registration.

**(3)** Subsection (2) does not apply to a registration for which the purchaser is named as a debtor in a registered financing statement.

**(4)** Subsection (2) operates despite section 68 of the *Personal Property Security Act*.

**(5)** A designated manufactured home is sold at a public auction when the person who is acting as the auctioneer declares the designated manufactured home sold.

1998 c24 s40

**Right to sell or dispose of designated manufactured home**

**436.15** If a designated manufactured home is not sold at a public auction under section 436.09, the municipality may

- (a) dispose of it
  - (i) by selling it at a price that is as close as reasonably possible to the market value of the designated manufactured home, or
  - (ii) by depositing in the account referred to in section 436.17(1)(a) an amount of money equal to the price

at which the municipality would be willing to sell the designated manufactured home under subclause (i),

or

- (b) grant a lease in respect of it.

1998 c24 s40

#### **Payment of tax arrears**

**436.16(1)** If the tax arrears in respect of a designated manufactured home are paid before the municipality disposes of it under section 436.15(a) or while the designated manufactured home is being leased under section 436.15(b), the municipality must return the designated manufactured home to its owner.

(2) Before returning the designated manufactured home to its owner under subsection (1), the municipality must send a written notice

- (a) to each person referred to in section 436.08(1), and
- (b) if the municipality has leased the designated manufactured home under section 436.15(b), to the person leasing it.

(3) The notice must state that

- (a) the designated manufactured home will be returned to the owner after 30 days from the date of the notice, and
- (b) despite any provision to the contrary in a lease agreement in respect of the designated manufactured home, the lease expires 30 days after the date of the notice.

(4) Subsection (3) applies despite anything contained in the *Residential Tenancies Act*.

1998 c24 s40

#### **Separate account for sale proceeds**

**436.17(1)** The money paid for a designated manufactured home at a public auction or pursuant to section 436.15(a)

- (a) must be deposited by the municipality in an account that is established solely for the purpose of depositing money from the sale or disposition of designated manufactured homes under this Division, and
- (b) must be paid out in accordance with this section and section 436.18.

(2) Money paid to a municipality as rent under a lease granted under section 436.15(b) must be placed in the account referred to in

subsection (1) and distributed in accordance with this section and section 436.18.

(3) The following must be paid first and in the following order:

- (a) the tax arrears in respect of the designated manufactured home;
- (b) any lawful expenses of the municipality in respect of the designated manufactured home;
- (c) an administration fee of 5% of the amount deposited in respect of the designated manufactured home pursuant to subsection (1), payable to the municipality.

(4) If there is any money remaining after payment of the tax arrears and costs listed in subsection (3), the municipality must notify the previous owner of the designated manufactured home that there is money remaining.

(5) If the municipality is satisfied after a search of the Registry using the serial number of the designated manufactured home that there are no security interests in or liens, writs, charges or other encumbrances against the designated manufactured home, the municipality may pay the money remaining after the payments under subsection (3) to the previous owner of the designated manufactured home.

(6) If the municipality is not satisfied after a search of the Registry using the serial number of the designated manufactured home that there are no security interests in or liens, writs, charges or other encumbrances against the designated manufactured home, the municipality must notify the previous owner that an application may be made under section 436.18 to recover all or part of the money.

1998 c24 s40

#### **Distribution of surplus sale proceeds**

**436.18(1)** A person may apply to the Court of Queen's Bench for an order declaring that the person is entitled to a part of the money in the account referred to in section 436.17(1).

(2) An application under this section must be made within 5 years after

- (a) the date of the public auction, if the designated manufactured home was sold at a public auction, or
- (b) the date of a sale under section 436.15(a), if the designated manufactured home was sold under that section.

(3) The Court must decide if notice must be given to any person other than the applicant and in that event the hearing must be adjourned to allow notice to be given.

RSA 2000 cM-26 s436.18;2009 c53 s119

#### **Payment of undistributed money to municipality**

**436.19** If no application is made under section 436.18 within the 5-year period referred to in section 436.18, the municipality may, for any purpose, use the money deposited in accordance with section 436.17 that remains undistributed.

1998 c24 s40

#### **Transfer to municipality after 10 years**

**436.2(1)** Despite anything in this Division, where a designated manufactured home has been offered for sale but not sold at a public auction and the municipality has not disposed of it under section 436.15(a) within 10 years following the date of the public auction,

- (a) sections 436.16, 436.17 and 436.18 cease to apply with respect to that designated manufactured home, and
- (b) the municipality becomes the owner of the designated manufactured home free of all security interests, liens, writs, charges and other encumbrances, except encumbrances arising from claims of the Crown in right of Canada, and all obligations secured by the security interests, liens, writs, charges or encumbrances are, as regards the municipality, deemed performed.

(2) When the municipality becomes the owner of a designated manufactured home under subsection (1), the municipality may, in respect of any security interest in or lien, writ, charge or other encumbrance against the designated manufactured home as disclosed by a search of the Registry using the serial number of the designated manufactured home, register a financing change statement

- (a) to amend the collateral description in the registration to exclude the designated manufactured home, or
- (b) if the designated manufactured home is the only collateral described in the registration, to discharge the registration.

(3) Subsection (2) operates despite section 68 of the *Personal Property Security Act*.

1998 c24 s40

#### **Prohibited bidding and buying**

**436.21(1)** When a municipality holds a public auction under section 436.09 or a sale under section 436.15(a), the auctioneer, the

councillors, the chief administrative officer and the designated officers and employees of the municipality must not bid for or buy, or act as an agent in buying, any designated manufactured home offered for sale, unless subsection (2) applies.

(2) A municipality may direct a designated officer or employee of the municipality to bid for or buy a designated manufactured home of which the municipality wishes to become the owner.

1998 c24 s40

#### **Manufactured home moved to another municipality**

**436.22** If, after tax recovery proceedings affecting a designated manufactured home are started under this Division, the designated manufactured home is moved to another municipality or its site becomes part of another municipality,

- (a) the proceedings must be continued by that other municipality as if the designated manufactured home had always been included in it, and
- (b) the other municipality must pay to the municipality that commenced the proceedings, to the extent that the other municipality receives sufficient money to do so, the costs incurred by the original municipality in connection with the tax recovery proceedings.

1998 c24 s40

#### **Regulations**

**436.23** The Minister may make regulations

- (a) respecting the rights and obligations of a municipality in relation to its possession of a designated manufactured home under this Division;
- (b) respecting any other matter related to the recovery of taxes under this Division that the Minister considers necessary to carry out the intent of this Division.

1998 c24 s40

#### **Reporting requirements**

**436.24(1)** Unless a municipality passes a bylaw to the contrary, the owner of a manufactured home community must provide monthly reports to the chief administrative officer or a designated officer of the municipality regarding

- (a) the ownership of all designated manufactured homes in the manufactured home community, including the serial numbers of the designated manufactured homes, and
- (b) the movement of all designated manufactured homes in and out of the manufactured home community.

(2) Despite subsection (1), a municipality may pass a bylaw requiring the owner of the manufactured home community to provide the reports required under subsection (1) to the municipality on the dates specified by the municipality, but not more than once a month.

1998 c24 s40

## Division 9 Recovery of Taxes Not Related to Land

### Definitions

**437** In this Division,

- (a) “distress warrant” means a written instruction to seize goods of the person named in the warrant;
- (b) “period for payment” means
  - (i) if the person liable to pay the tax is a resident of the municipality, the 14 days following the sending of the tax notice by the municipality, or
  - (ii) if the person liable to pay the tax is not a resident of the municipality, the 30 days following the sending of the tax notice by the municipality;
- (c) “tax” means
  - (i) a business tax,
  - (ii) a well drilling equipment tax,
  - (ii.1) a community aggregate payment levy, or
  - (iii) a property tax or community revitalization levy imposed in respect of property referred to in section 304(1)(c), (f), (g), (h), (i), (j)(i) or (k);
- (d) “tax arrears” means taxes that remain unpaid after the expiry of the period for payment.

RSA 2000 cM-26 s437;2005 c14 s18

### Methods of recovering taxes in arrears

**438(1)** A municipality may attempt to recover tax arrears

- (a) in accordance with this Division, and
- (b) subject to subsection (2), in accordance with any other Act or common law right.

(2) A municipality may start an action under subsection (1)(b) at any time before the goods are sold at a public auction or the



municipality becomes the owner of the goods under section 448, whichever occurs first.

1994 cM-26.1 s438

#### **Right to issue distress warrant**

**439(1)** A municipality wishing to recover tax arrears pursuant to this Division may issue a distress warrant.

**(2)** Each municipality may, in writing, authorize a designated officer or appoint a person to the position of designated officer to prepare and issue distress warrants and seize goods pursuant to distress warrants on behalf of the municipality.

1994 cM-26.1 s439

#### **Seizure of goods**

**440(1)** When a distress warrant has been issued, a civil enforcement agency or a person referred to in section 439(2) must place sufficient goods under seizure to satisfy the amount of the claim shown in the warrant.

**(2)** The person placing goods under seizure may ask the person who owns or has possession of the seized goods to sign a bailee's undertaking agreeing to hold the seized goods for the municipality.

**(3)** If a person refuses to sign a bailee's undertaking, the person placing goods under seizure may remove the goods from the premises.

**(4)** When a bailee's undertaking has been signed under subsection (2), the goods specified in it are deemed to have been seized.

**(5)** A seizure under this section continues until the municipality

- (a) abandons the seizure by written notice, or
- (b) sells the goods.

**(6)** The municipality is not liable for wrongful or illegal seizure or for loss of or damage to goods held under a seizure under this section if a bailee's undertaking relating to the seized goods has been signed pursuant to subsection (2).

1994 cM-26.1 s440;1994 cC-10.5 s146;1997 c19 s3

#### **Goods affected by distress warrant**

**441(1)** A person may seize the following goods pursuant to a distress warrant:

- (a) goods belonging to the person who is liable to pay the tax arrears or in which that person has an interest;

- (b) goods of a business that is liable to pay business tax arrears, even if the goods have been sold to a purchaser of the business;
- (c) goods of a corporation that are in the hands of
  - (i) a receiver appointed for the benefit of creditors,
  - (ii) an authorized trustee in bankruptcy, or
  - (iii) a liquidator appointed under a winding-up order.

(2) If a person who is liable to pay tax arrears is in possession of goods belonging to others for the purpose of storing the goods, those goods must not be seized pursuant to the distress warrant.

1994 cM-26.1 s441

#### **Date for issuing distress warrant**

**442(1)** A distress warrant must not be issued until the period for payment expires, unless subsection (2) applies.

(2) If, before the period for payment expires, a municipality has reason to believe that a person is about to move out of the municipality goods that are to be seized under a distress warrant, the municipality may apply to a justice of the peace for an order authorizing the municipality to issue the distress warrant before the period for payment expires.

1994 cM-26.1 s442

#### **Right to pay tax arrears**

**443(1)** After goods have been seized under a distress warrant, any person may pay the tax arrears.

(2) On payment of the tax arrears under subsection (1), the municipality must release the goods from seizure.

(3) A person may exercise the right under subsection (1) at any time before the municipality sells the goods at a public auction or becomes the owner of the goods under section 448.

1994 cM-26.1 s443

#### **Right to collect rent to pay tax arrears**

**444(1)** If a distress warrant has been issued to recover tax arrears in respect of a business and the person who is liable to pay the business tax arrears owns property that is leased to one or more tenants, the municipality may send a notice to each tenant requiring the tenant to pay the rent as it becomes due to the municipality until the business tax arrears have been paid.

(2) Not less than 14 days before a municipality sends a notice under subsection (1), it must send a notice to the owner of the

property advising the owner of the municipality's intention to proceed under subsection (1).

(3) This section does not prevent the municipality from exercising any other right it has to collect the tax arrears.

1994 cM-26.1 s444

#### **Sale of property**

**445(1)** The municipality must offer for sale at a public auction goods that have been seized under a distress warrant if the tax arrears are not paid, unless the municipality starts an action under section 438(2) to recover the tax arrears before the date of the public auction.

(2) The municipality must advertise a public auction by posting a notice in at least 3 public places in the municipality near the goods to be sold not less than 10 days before the date of the auction.

(3) The advertisement must specify the date, time and location of the public auction, the conditions of sale, a description of the goods to be sold and the name of the person whose goods are to be sold.

(4) The advertisement must state that the municipality will become the owner of any goods not sold at the public auction, immediately after the public auction.

1994 cM-26.1 s445

#### **Date of public auction**

**446(1)** The public auction must be held not more than 60 days after the goods are seized under the distress warrant.

(2) The municipality may adjourn the holding of a public auction but must post a notice in accordance with section 445(2) showing the new date on which the public auction is to be held.

1994 cM-26.1 s446

#### **Exception to sale at auction**

**447** Despite section 445(1), a municipality may have grain seized under a distress warrant hauled to the nearest elevator or other convenient place of storage and may dispose of the grain at the current market price.

1994 cM-26.1 s447

#### **Transfer to municipality**

**448** The municipality becomes the owner of any goods offered for sale but not sold at a public auction, immediately after the public auction and may dispose of the goods by selling them.

1994 cM-26.1 s448

**Separate account for sale proceeds**

**449(1)** The money paid for goods at a public auction or pursuant to section 448

- (a) must be deposited by the municipality in an account that is established solely for the purpose of depositing money from the sale of goods under this Division, and
- (b) must be paid out in accordance with this section and section 450.

**(2)** The following must be paid first and in the following order:

- (a) the tax arrears;
- (b) any lawful expenses of the municipality in respect of the goods.

**(3)** If there is any money remaining after payment of the tax arrears and expenses listed in subsection (2), the municipality must notify the previous owner that there is money remaining and that an application may be made under section 450 to recover all or part of the money.

1994 cM-26.1 s449

**Distribution of surplus sale proceeds**

**450(1)** A person may apply to the Court of Queen's Bench for an order declaring that the person is entitled to a part of the money in the account referred to in section 449(1).

**(2)** An application under this section may be made within 5 years after the date of the public auction.

**(3)** The Court must decide if notice must be given to any person other than the applicant and in that event the hearing must be adjourned to allow notice to be given.

RSA 2000 cM-26 s450;2009 c53 s119

**Seizure of designated manufactured home**

**451** Part 10 of the *Civil Enforcement Act* does not apply to a designated manufactured home in a manufactured home community that has been seized under a distress warrant.

1994 cM-26.1 s451;1994 cC-10.5 s146;1998 c24 s41

**Regulations**

**452** The Minister may make regulations respecting any other matter related to the recovery of taxes under this Division that is considered necessary to carry out the intent of this Division.

1994 cM-26.1 s452

## **Part 11 Assessment Review Boards**

### **Division 1 Establishment and Function of Assessment Review Boards**

#### **Interpretation**

**453(1)** In this Part,

- (a) “assessment notice” includes an amended assessment notice and a supplementary assessment notice;
- (b) “assessment roll” includes a supplementary assessment roll;
- (c) “composite assessment review board” means an assessment review board consisting of
  - (i) one provincial member and 2 other members who are not provincial members, or
  - (ii) subject to section 454.2(3), one provincial member;
- (d) “local assessment review board” means an assessment review board consisting of
  - (i) 3 members who are not provincial members, or
  - (ii) subject to section 454.1(2), one member who is not a provincial member;
- (e) “provincial member” means a person appointed as a provincial member to a composite assessment review board by the Minister under section 454.2(2) or (3);
- (f) “tax notice” includes a supplementary tax notice;
- (g) “tax roll” includes a supplementary tax roll.

**(2)** In this Part, a reference to an assessment review board means a local assessment review board or a composite assessment review board, as the case requires.

RSA 2000 cM-26 s453;2009 c29 s13

#### **Assessment review boards established**

**454(1)** A council may by bylaw at any time establish one or more local assessment review boards and one or more composite assessment review boards.

(2) Despite subsection (1), a council must by bylaw on receiving a complaint under section 461 establish a local assessment review board or a composite assessment review board, depending on the type of complaint, to hear the complaint.

RSA 2000 cM-26 s454;2009 c29 s14

#### **Appointment of members to local assessment review board**

**454.1(1)** A council must

- (a) appoint 3 persons as members to each local assessment review board,
- (b) prescribe the term of office of each member appointed under clause (a) and the manner in which vacancies are to be filled, and
- (c) prescribe the remuneration and expenses, if any, payable to each member appointed under clause (a).

(2) Despite subsection (1) but subject to the conditions prescribed by the regulations, a council may establish a local assessment review board consisting of only one member appointed by the council.

(3) The members of each local assessment review board must choose a presiding officer from among themselves.

2009 c29 s15

#### **Appointment of members to composite assessment review board**

**454.2(1)** A council must

- (a) appoint 2 persons as members to each composite assessment review board,
- (b) prescribe the term of office of each member appointed under clause (a) and the manner in which vacancies are to be filled, and
- (c) prescribe the remuneration and expenses, if any, payable to each member appointed under clause (a).

(2) The Minister must, in accordance with the regulations, appoint one provincial member to each composite assessment review board.

(3) Despite subsections (1) and (2) but subject to the conditions prescribed by the regulations, a council may establish a composite assessment review board consisting of only a provincial member appointed by the Minister.

(4) The provincial member is the presiding officer of a composite assessment review board.

2009 c29 s15

#### **Qualifications of members**

**454.3** A member of an assessment review board may not participate in a hearing of the board unless the member is qualified to do so in accordance with the regulations.

2009 c29 s16

#### **Clerk**

**455(1)** The council must appoint a designated officer to act as the clerk of the assessment review boards having jurisdiction in the municipality and prescribe the remuneration and duties of that person.

(2) The clerk must not be an assessor.

1994 cM-26.1 s455

#### **Joint establishment of assessment review boards**

**456** Two or more councils may agree to establish jointly the assessment review boards to have jurisdiction in their municipalities.

2000 c29 s16

#### **Acting members**

**457(1)** The chief elected official may appoint a person as an acting member of

- (a) a local assessment review board, or
- (b) a composite assessment review board

if any member, other than a provincial member, is unable for any reason to attend a hearing of the board.

(2) The Minister must, in accordance with the regulations, appoint a person as an acting provincial member of a composite assessment review board if the provincial member is unable for any reason to attend a hearing of the board.

RSA 2000 cM-26 s457;2009 c29 s17

#### **Quorum**

**458(1)** Two members of a local assessment review board referred to in section 453(1)(d)(i) constitutes a quorum of the local assessment review board.

(2) The provincial member and one other member of a composite assessment review board referred to in section 453(1)(c)(i) constitutes a quorum of the composite assessment review board.

RSA 2000 cM-26 s458;2009 c29 s18

**Decision**

**459** A decision of a majority of the members of an assessment review board is the decision of the assessment review board.

1994 cM-26.1 s459

**Complaints**

**460(1)** A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

**(2)** A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

**(3)** A complaint may be made only by an assessed person or a taxpayer.

**(4)** A complaint may relate to any assessed property or business.

**(5)** A complaint may be about any of the following matters, as shown on an assessment or tax notice:

- (a) the description of a property or business;
- (b) the name and mailing address of an assessed person or taxpayer;
- (c) an assessment;
- (d) an assessment class;
- (e) an assessment sub-class;
- (f) the type of property;
- (g) the type of improvement;
- (h) school support;
- (i) whether the property is assessable;
- (j) whether the property or business is exempt from taxation under Part 10.

**(6)** There is no right to make a complaint about any tax rate.

**(7)** A complainant must

- (a) indicate what information shown on an assessment notice or tax notice is incorrect,
- (b) explain in what respect that information is incorrect,



- (c) indicate what the correct information is, and
- (d) identify the requested assessed value, if the complaint relates to an assessment.

**(8)** A complaint about a local improvement tax must be made within one year after it is first imposed.

**(8.1)** Despite subsection (8), where a local improvement tax rate has been revised under section 403(3), a complaint may be made about the revised local improvement tax whether or not a complaint was made about the tax within the year after it was first imposed.

**(8.2)** A complaint under subsection (8.1) must be made within one year after the local improvement tax rate is revised.

**(9)** Repealed 1995 c24 s71.

**(10)** A complaint must include the mailing address of the complainant if the mailing address of the complainant is different from the address shown on the assessment notice or tax notice.

**(11)** An assessment review board has no jurisdiction to deal with a complaint about linear property or an amount set by the Minister under Part 9 as the equalized assessment for a municipality.

RSA 2000 cM-26 s460;2009 c29 s19

#### **Jurisdiction of assessment review boards**

**460.1(1)** A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

- (a) an assessment notice for
  - (i) residential property with 3 or fewer dwelling units, or
  - (ii) farm land,

or

- (b) a tax notice other than a property tax notice.

**(2)** Subject to section 460(11), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

2009 c29 s20

#### **Address to which a complaint is sent**

**461(1)** A complaint must be filed with the designated officer at the address shown on the assessment or tax notice, not later than the date shown on that notice.

(2) On receiving a complaint, the designated officer referred to in section 455 must set a date, time and location for a hearing before an assessment review board in accordance with the regulations.

RSA 2000 cM-26 s461;2009 c29 s21

#### **Notice of assessment review board hearing**

**462(1)** If a complaint is to be heard by a local assessment review board, the designated officer must

- (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and
- (b) within the time prescribed by the regulations, notify the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.

(2) If a complaint is to be heard by a composite assessment review board, the designated officer must

- (a) within 30 days after receiving the complaint, provide the municipality with a copy of the complaint, and
- (b) within the time prescribed by the regulations, notify the Minister, the municipality, the complainant and any assessed person other than the complainant who is affected by the complaint of the date, time and location of the hearing.

RSA 2000 cM-26 s462;2009 c29 s22

#### **Absence from hearing**

**463** If any person who is given notice of the hearing does not attend, the assessment review board must proceed to deal with the complaint if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the board or, if a request was received, no postponement or adjournment was granted by the board.

RSA 2000 cM-26 s463;2009 c29 s23

#### **Proceedings before assessment review board**

**464(1)** Assessment review boards are not bound by the rules of evidence or any other law applicable to court proceedings and have power to determine the admissibility, relevance and weight of any evidence.

(2) Assessment review boards may require any person giving evidence before them to do so under oath.

(3) Members of assessment review boards are commissioners for oaths while acting in their official capacities.

1994 cM-26.1 s464

#### **Notice to attend or produce**

**465(1)** When, in the opinion of an assessment review board,

- (a) the attendance of a person is required, or
- (b) the production of a document or thing is required,

the assessment review board may cause to be served on a person a notice to attend or a notice to attend and produce a document or thing.

(2) If a person fails or refuses to comply with a notice served under subsection (1), the assessment review board may apply to the Court of Queen's Bench and the Court may issue a warrant requiring the attendance of the person or the attendance of the person to produce a document or thing.

RSA 2000 cM-26 s465;2009 c53 s119

#### **Protection of witnesses**

**466** A witness may be examined under oath on anything relevant to a matter that is before an assessment review board and is not excused from answering any question on the ground that the answer might tend to

- (a) incriminate the witness,
- (b) subject the witness to punishment under this or any other Act, or
- (c) establish liability of the witness
  - (i) to a civil proceeding at the instance of the Crown or of any other person, or
  - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subject the witness to punishment or establish liability of the witness, it must not be used or received against the witness in any civil proceedings or in any other proceedings under this or any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

1994 cM-26.1 s466

## Division 2 Decisions of Assessment Review Boards

### Decisions of assessment review board

**467(1)** An assessment review board may, with respect to any matter referred to in section 460(5), make a change to an assessment roll or tax roll or decide that no change is required.

**(2)** An assessment review board must dismiss a complaint that was not made within the proper time or that does not comply with section 460(7).

**(3)** An assessment review board must not alter any assessment that is fair and equitable, taking into consideration

- (a) the valuation and other standards set out in the regulations,
- (b) the procedures set out in the regulations, and
- (c) the assessments of similar property or businesses in the same municipality.

**(4)** An assessment review board must not alter any assessment of farm land, machinery and equipment or railway property that has been prepared correctly in accordance with the regulations.

RSA 2000 cM-26 s467;2009 c29 s24

### Assessment review board decisions

**468(1)** Subject to the regulations, an assessment review board must, in writing, render a decision and provide reasons, including any dissenting reasons,

- (a) within 30 days from the last day of the hearing, or
- (b) before the end of the taxation year to which the complaint that is the subject of the hearing applies,

whichever is earlier.

**(2)** Despite subsection (1), in the case of a complaint about a supplementary assessment notice, an amended assessment notice or any tax notice other than a property tax notice, an assessment review board must render its decision in writing in accordance with the regulations.

RSA 2000 cM-26 s468;2009 c29 s25

### Costs of proceedings

**468.1** A composite assessment review board may, or in the circumstances set out in the regulations must, order that costs of

and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.

2009 c29 s26

#### **Effect of order relating to costs**

**468.2** An order of the composite assessment review board under section 468.1 may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of Queen's Bench.

2009 c29 s26

#### **Notice of decision**

**469** The designated officer appointed under section 455 must, within 7 days after an assessment review board renders a decision, send the board's written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 462(1)(b) or (2)(b), as the case may be.

RSA 2000 cM-26 s469;2009 c29 s27

#### **Appeal**

**470(1)** An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

**(2)** Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;
- (b) an assessed person, other than the complainant, who is affected by the decision;
- (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
- (d) the assessor for a municipality referred to in clause (c).

**(3)** An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 469, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and
- (b) any other persons as the judge directs.

**(4)** If an applicant makes a written request for materials to the assessment review board for the purposes of the application for leave to appeal under subsection (3), the assessment review board

must provide the materials requested within 14 days from the date on which the written request is served.

(5) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.

(6) If a judge grants leave to appeal, the judge may

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the question of law or the question of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

(7) On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.

(8) Notice of the appeal must be given to the parties affected by the appeal and to the assessment review board.

(9) Within 30 days from the date that the leave to appeal is obtained, the assessment review board must forward to the clerk of the Court of Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.

RSA 2000 cM-26 s470;2009 c29 s28

#### **Decision on appeal**

**470.1(1)** On the hearing of an appeal,

- (a) no evidence other than the evidence that was submitted to the assessment review board may be admitted, but the Court of Queen's Bench may draw any inferences
  - (i) that are not inconsistent with the facts expressly found by the assessment review board, and
  - (ii) that are necessary for determining the question of law or the question of jurisdiction,

and

- (b) the Court may confirm or cancel the decision.

(2) In the event that the Court of Queen's Bench cancels a decision, the Court must refer the matter back to the assessment review board, and the board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction.

(3) No member of the assessment review board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.

(4) If the Court of Queen's Bench finds that the only ground for appeal established is a defect in form or a technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the assessment review board despite the defect or irregularity, and order that the decision takes effect from the time and on the terms that the Court considers proper.

2009 c29 s28

#### **Technical irregularities**

**471(1)** If there has been substantial compliance with this Part, the decision of an assessment review board is not invalid because of a defect in form, a technical irregularity or informality.

(2) An assessment review board may correct any error or omission in its decision.

1994 cM-26.1 s471;1996 c30 s44

**472 to 476** Repealed 1995 c24 s73.

### **Division 4 General Matters**

#### **Referral of unfair assessment to Minister**

**476.1** An assessment review board may refer any assessment that it considers unfair and inequitable to the Minister and the Minister may deal with it under sections 324 and 571.

2009 c29 s29

#### **Required changes to rolls**

**477** The municipality must make any changes to its assessment roll or tax roll, or both, that are necessary to reflect the decision of an assessment review board.

1994 cM-26.1 s477;1995 c24 s74

**Right to continue proceedings**

**478** A person who becomes an assessed person or taxpayer in respect of a property or business when a complaint about the property or business is being dealt with under this Part may become a party to any proceedings started by the previous assessed person or taxpayer.

1994 cM-26.1 s478

**Obligation to pay taxes**

**479** Making a complaint under this Part does not relieve any person from the obligation to pay any taxes owing on any property or business or any penalties imposed for late payment of taxes.

1994 cM-26.1 s479

**Prohibition**

**480(1)** A member of an assessment review board must not hear or vote on any decision that relates to a matter in respect of which the member has a pecuniary interest.

**(2)** For the purposes of subsection (1), a member of an assessment review board has a pecuniary interest in a matter to the same extent that a councillor would have a pecuniary interest in the matter as determined in accordance with section 170.

RSA 2000 cM-26 s480;2009 c29 s30

**Fees**

**481(1)** Subject to the regulations made pursuant to section 484.1(q), the council may set fees payable by persons wishing to make complaints or to be involved as a party or intervenor in a hearing before an assessment review board and for obtaining copies of an assessment review board's decisions and other documents.

**(2)** If the assessment review board makes a decision in favour of the complainant, the fees paid by the complainant under subsection (1) must be refunded.

**(3)** If

- (a) the assessment review board makes a decision that is not in favour of the complainant, and
- (b) on appeal, the Court of Queen's Bench makes a decision in favour of the complainant,

the fees paid by the complainant under subsection (1) must be refunded.

RSA 2000 cM-26 s481;2009 c29 s31

**Admissible evidence at hearing**

**482(1)** A copy of



- (a) an assessment roll or tax roll or part of it, or
- (b) an assessment notice or tax notice,

that is certified by a designated officer as being a true copy of the original roll, part of the roll or notice is proof, in the absence of evidence to the contrary, of the existence and validity of the roll, part of the roll or notice and is admissible in evidence without proof of the appointment or signature of the designated officer.

(2) A statutory declaration signed by a designated officer is admissible in evidence as proof, in the absence of evidence to the contrary, that

- (a) an assessment notice was sent on the date shown on the assessment notice. or
- (b) a tax notice was sent on the date shown on the tax notice.

1994 cM-26.1 s482

#### **Decision admissible on appeal**

**483** A copy of a decision of an assessment review board that is certified by a designated officer as being a true copy of the original decision is proof, in the absence of evidence to the contrary, of the decision and is admissible in evidence without proof of the appointment or signature of the designated officer.

1994 cM-26.1 s483

#### **Immunity**

**484** The members of an assessment review board are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under this Part.

1994 cM-26.1 s484

#### **Regulations**

**484.1** The Minister may make regulations

- (a) respecting the eligibility of persons to be provincial members;
- (b) respecting the appointment of provincial members and acting provincial members to composite assessment review boards;
- (c) prescribing the conditions under which a council may establish a local assessment review board consisting of only one member;

- (d) prescribing the conditions under which a council may establish a composite assessment review board consisting of only a provincial member;
- (e) respecting the training and qualifications of members of assessment review boards and persons appointed as designated officers under section 455;
- (f) respecting the setting by the designated officer of the date, time and location of a hearing before an assessment review board;
- (g) prescribing the period of time for purposes of section 462(1)(b) and (2)(b);
- (h) respecting the procedures and functions of assessment review boards;
- (i) governing the disclosure of evidence in a hearing before an assessment review board;
- (j) respecting the jurisdiction of assessment review boards;
- (k) respecting the authority of assessment review boards to hear complaints and the manner in which the boards are to hear complaints;
- (l) respecting costs that may or must be imposed by a composite assessment review board in respect of a hearing, including, without limitation, regulations respecting
  - (i) the circumstances in which costs must be imposed, and
  - (ii) the amount of costs;
- (m) respecting the rendering of decisions by assessment review boards;
- (n) respecting the circumstances under which a person may act as an agent for an assessed person or taxpayer at a hearing before an assessment review board;
- (o) respecting any other matter relating to assessment review boards;
- (p) respecting appeals under section 470;
- (q) setting amounts for any fees that a council may set pursuant to section 481(1).

## Part 12

### Municipal Government Board

#### Definitions

**485** In this Part,

- (a) “administrator” means the Deputy Minister;
- (b) “Board” means the Municipal Government Board and includes any panel of the Municipal Government Board.

1994 cM-26.1 s485

#### Division 1

### Establishment and Jurisdiction of the Municipal Government Board

#### Appointment of Board members

**486(1)** There is established a board to be known as the Municipal Government Board consisting of the persons appointed by the Lieutenant Governor in Council, on the recommendation of the Minister.

**(2)** The members of the Board are to be paid

- (a) remuneration at the rates set by the Lieutenant Governor in Council, and
- (b) reasonable travelling and living expenses while carrying out duties as members of the Board away from home,

in accordance with any applicable regulations under the *Alberta Public Agencies Governance Act*.

**(3)** The administrator is the chair of the Board.

**(4)** The administrator may delegate to any person any of the powers, duties or functions of the administrator under this Part.

RSA 2000 cM-26 s486;2009 cA-31.5 s60

#### Panels of the Board

**487(1)** The administrator must select any 3 or more members of the Board to sit as a panel of the Board unless subsection (1.1) applies.

**(1.1)** Subject to the conditions prescribed by the regulations, the administrator may select one member of the Board to sit as a panel of the Board.

**(2)** The administrator may establish as many panels as the administrator considers necessary.

**(3)** The administrator may appoint a presiding officer for a panel but if the administrator does not do so, the members of a panel must choose a presiding officer from among themselves.

1994 cM-26.1 s487;1996 c30 s46;1998 c24 s48

#### **Qualifications of members**

**487.1** A member of a panel of the Board may not participate in a hearing related to assessment matters unless the member is qualified to do so in accordance with the regulations.

2009 c29 s33

#### **Jurisdiction of the Board**

**488(1)** The Board has jurisdiction

- (a) to hear complaints about assessments for linear property,
- (b) to hear any complaint relating to the amount set by the Minister under Part 9 as the equalized assessment for a municipality,
- (c) repealed 2009 c29 s34,
- (d) to decide disputes between a management body and a municipality or between 2 or more management bodies, referred to it by the Minister under the *Alberta Housing Act*,
- (e) to inquire into and make recommendations about any matter referred to it by the Lieutenant Governor in Council or the Minister,
- (f) to deal with annexations in accordance with Part 4,
- (g) to decide disputes involving regional services commissions under section 602.15,
- (h) to hear appeals pursuant to section 619,
- (i) to hear appeals from subdivision decisions pursuant to section 678(2)(a), and
- (j) to decide intermunicipal disputes pursuant to section 690.

**(2)** The Board must hold a hearing under Division 2 of this Part in respect of the matters set out in subsection (1)(a) and (b).

**(3)** Sections 495 to 498, 501 to 504 and 507 apply when the Board holds a hearing to decide a dispute or hear an appeal referred to in subsection (1)(g) to (j).

RSA 2000 cM-26 s488;2009 c29 s34

**ALSA regional plans**

**488.01** In carrying out its functions and in exercising its jurisdiction under this Act and other enactments, the Board must act in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s83

**Limit on Board's jurisdiction**

**488.1** The Board has no jurisdiction under section 488(1) to hear a complaint relating to an equalized assessment set by the Minister under Part 9 if the reason for the complaint is

- (a) that the equalized assessment fails to reflect a loss in value where the loss in value has not been reflected in the assessments referred to in section 317,
- (b) that information provided to the Minister by a municipality in accordance with section 319(1) does not properly reflect the relationship between assessments and the value of property in the municipality for the year preceding the year in which the assessments were used for the purpose of imposing a tax under Part 10, or
- (c) that information relied on by the Minister pursuant to section 319(2) is incorrect.

RSA 2000 cM-26 s488.1;2009 c29 s35

**Quorum**

**489** A majority of the members of a panel of the Board constitutes a quorum.

1994 cM-26.1 s489

**Decision**

**490** A decision of a majority of the members of a panel of the Board is the decision of the Board.

1994 cM-26.1 s490

## **Division 2**

### **Hearings Before the Board**

**Form of complaint**

**491(1)** Any matter that is to be dealt with by a hearing before the Board must be in the form prescribed by the regulations and must be filed with the administrator within the following periods:

- (a) for a complaint about an assessment for linear property, not later than the date shown on the assessment notice;
- (b) for a complaint relating to the amount of an equalized assessment, not later than 30 days from the date the Minister sends the municipality the report described in section 320.

- (2) The form referred to in subsection (1) must include
- (a) the reason the matter is being referred to the Board,
  - (b) a brief explanation of the issues to be decided by the Board, and
  - (c) an address to which any notice or decision of the Board is to be sent.
- (3) In addition to the information described in subsection (2), in respect of a complaint about an assessment for linear property, the form referred to in subsection (1) must
- (a) indicate what information on an assessment notice is incorrect,
  - (b) explain in what respect that information is incorrect,
  - (c) indicate what the correct information is, and
  - (d) identify the requested assessed value, if the complaint relates to an assessment.
- (4) In addition to the information described in subsection (2), in respect of a complaint about an amount of an equalized assessment, the form referred to in subsection (1) must
- (a) explain in what respect the amount is incorrect, and
  - (b) indicate what the correct amount should be.

RSA 2000 cM-26 s491;2009 c29 s36

**Complaints about linear property**

**492(1)** A complaint about an assessment for linear property may be about any of the following matters, as shown on the assessment notice:

- (a) the description of any linear property;
- (b) the name and mailing address of an assessed person;
- (c) an assessment;
- (d) the type of improvement;
- (e) school support;
- (f) whether the linear property is assessable;
- (g) whether the linear property is exempt from taxation under Part 10.

**(1.1)** Any of the following may make a complaint about an assessment for linear property:

- (a) an assessed person;
- (b) a municipality, if the complaint relates to property that is within the boundaries of that municipality.

**(2)** Repealed 1995 c24 s76.

1994 cM-26.1 s492;1995 c24 s76;1998 c24 s50

#### **Duty of administrator on receiving statement**

**493(1)** On receiving a written statement referred to in section 491(1), the administrator must set a date, time and location for a hearing before the Board in accordance with the regulations.

**(2)** If the written statement relates to a complaint about an assessment for linear property, the administrator must advise the Minister that the statement has been received.

RSA 2000 cM-26 s493;2009 c29 s37

#### **Notice of hearing before the Board**

**494(1)** If a matter is to be heard by the Board, the administrator must

- (a) within 30 days after receiving a written statement under section 491(1), provide the municipality with a copy of the statement, and
- (b) within the time prescribed by the regulations, notify the municipality, the person who sent the written statement to the administrator and any assessed person who is affected by the matter to be heard of the date, time and location of the hearing.

**(2)** Repealed 2009 c29 s38.

RSA 2000 cM-26 s494;2009 c29 s38

#### **Absence from hearing**

**495(1)** If any person who is given notice of the hearing does not attend, the Board must proceed to deal with the matter if

- (a) all persons required to be notified were given notice of the hearing, and
- (b) no request for a postponement or an adjournment was received by the Board or, if a request was received, no postponement or adjournment was granted by the Board.

RSA 2000 cM-26 s495;2009 c29 s39

**Proceedings before the Board**

**496(1)** The Board is not bound by the rules of evidence or any other law applicable to court proceedings and has power to determine the admissibility, relevance and weight of any evidence.

**(2)** The Board may require any person giving evidence before it to do so under oath.

**(3)** Members of the Board are commissioners for oaths while acting in their official capacities.

1994 cM-26.1 s496

**Notice to attend or produce**

**497(1)** When, in the opinion of the Board,

- (a) the attendance of a person is required, or
- (b) the production of a document or thing is required,

the Board may cause to be served on a person a notice to attend or a notice to attend and produce a document or thing.

**(2)** If a person fails or refuses to comply with a notice served under subsection (1), the Board may apply to the Court of Queen's Bench and the Court may issue a warrant requiring the attendance of the person or the attendance of the person to produce a document or thing.

RSA 2000 cM-26 s497;2009 c53 s119

**Protection of witnesses**

**498** A witness may be examined under oath on anything relevant to a matter that is before the Board and is not excused from answering any question on the ground that the answer might tend to

- (a) incriminate the witness,
- (b) subject the witness to punishment under this or any other Act, or
- (c) establish liability of the witness
  - (i) to a civil proceeding at the instance of the Crown or of any other person, or
  - (ii) to prosecution under any Act,

but if the answer so given tends to incriminate the witness, subject the witness to punishment or establish liability of the witness, it must not be used or received against the witness in any civil proceedings or in any other proceedings under this or any other



Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

1994 cM-26.1 s498

#### **Decisions of the Board**

**499(1)** On concluding a hearing, the Board may make any of the following decisions:

- (a) make a change with respect to any matter referred to in section 492(1), if the hearing relates to a complaint about an assessment for linear property;
- (b) make a change to any equalized assessment, if the hearing relates to an equalized assessment;
- (c) decide that no change to an equalized assessment or an assessment roll is required.

**(2)** The Board must dismiss a complaint that was not made within the proper time or that does not comply with section 491(1), (2) or (3).

**(3)** The Board must not alter

- (a) any assessment of linear property that has been prepared correctly in accordance with the regulations, and
- (b) any equalized assessment that is fair and equitable, taking into consideration equalized assessments in similar municipalities.

**(4)** The Board may, in its decision,

- (a) include terms and conditions, and
- (b) make the decision effective on a future date or for a limited time.

RSA 2000 cM-26 s499;2009 c29 s40

#### **Board decisions**

**500(1)** Subject to the regulations, if the hearing relates to a complaint about an assessment for linear property, the Board must, in writing, render a decision and provide reasons, including any dissenting reasons,

- (a) within 30 days from the last day of the hearing, or
- (b) before the end of the taxation year to which the assessment that is the subject of the hearing applies,

whichever is earlier.

(2) Subject to the regulations, if the hearing relates to a complaint about the amount of an equalized assessment, the Board must, in writing, render a decision and provide reasons, including any dissenting reasons,

(a) within 30 days from the last day of the hearing, or

(b) within 150 days from the date the Minister sends the municipality the report described in section 320,

whichever is earlier.

RSA 2000 cM-26 s500;2002 c19 s18;2009 c29 s41

#### **Costs of proceedings**

**501** The Board may, or in the circumstances set out in the regulations must, order that costs of and incidental to any hearing before it be paid by one or more of the parties in the amount specified in the regulations.

RSA 2000 cM-26 s501;2009 c29 s42

#### **Effect of decision relating to costs**

**502** An order of the Board under section 501 may be registered in the Personal Property Registry and at any land titles office and, on registration, has the same effect as if it were a registered writ of enforcement issued after judgment has been entered in an action by the Court of Queen's Bench.

RSA 2000 cM-26 s502;2009 c29 s43

#### **Extension of time**

**503** When a decision of the Board requires something to be done within a specified time, the Board may extend the time.

RSA 2000 cM-26 s502;2009 c29 s43

#### **Rehearing**

**504** The Board may rehear any matter before making its decision, and may review, rescind or vary any decision made by it.

1994 cM-26.1 s504

#### **Notice of decision**

**505** The Board must, within 7 days after it renders a decision, send its written decision and reasons, including any dissenting reasons, to the persons notified of the hearing under section 494(1)(b).

RSA 2000 cM-26 s505;2009 c29 s44

#### **Appeal**

**506(1)** An appeal lies to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of the Board.

(2) Any of the following may appeal the decision of the Board:

- (a) the complainant;
- (b) an assessed person, other than the complainant, who is affected by the decision;
- (c) a municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;
- (d) the assessor for a municipality referred to in clause (c).

**(3)** An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 505, and notice of the application for leave to appeal must be given to

- (a) the Board, and
- (b) any other persons as the judge directs.

**(4)** If an applicant makes a written request for materials to the Board for the purposes of the application for leave to appeal under subsection (3), the Board must provide the materials requested within 14 days from the date on which the written request is served.

**(5)** On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.

**(6)** If a judge grants leave to appeal, the judge may

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the question of law or the question of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

**(7)** On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.

**(8)** Notice of the appeal must be given to the parties affected by the appeal and to the Board.

**(9)** Within 30 days from the date that the leave to appeal is obtained, the Board must forward to the clerk of the Court of

Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.

RSA 2000 cM-26 s506;2009 c29 s45

#### **Decision on appeal**

**506.1(1)** On the hearing of an appeal,

- (a) no evidence other than the evidence that was submitted to the Board may be admitted, but the Court of Queen's Bench may draw any inferences
  - (i) that are not inconsistent with the facts expressly found by the Board, and
  - (ii) that are necessary for determining the question of law or the question of jurisdiction,

and

- (b) the Court may confirm or cancel the decision.

**(2)** In the event that the Court of Queen's Bench cancels a decision, the Court must refer the matter back to the Board, and the Board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction.

**(3)** No member of the Board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.

**(4)** If the Court of Queen's Bench finds that the only ground for appeal established is a defect in form or a technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the Board despite the defect or irregularity, and order that the decision takes effect from the time and on the terms that the Court considers proper.

2009 c29 s45

#### **Technical irregularities**

**507(1)** If there has been substantial compliance with this Part, a decision of the Board is not invalid because of a defect in form, a technical irregularity or informality.

- (2)** The Board may correct any error or omission in its decision.

1994 cM-26.1 s507

#### **Intervention by municipality**

**508(1)** When the council of a municipality considers that the interests of the public in the municipality or in a major part of the

municipality are sufficiently concerned, the council may authorize the municipality to become a complainant or intervenor in a hearing before the Board.

(2) For the purposes of subsection (1), a council may take any steps, incur any expense and take any proceedings necessary to place the question in dispute before the Board for a decision.

1994 cM-26.1 s508

**509 to 513** Repealed 1995 c24 s78.

#### **Division 4 Inquiries by the Board**

##### **Referrals to the Board**

**514(1)** The Lieutenant Governor in Council may refer any matter to the Board for its recommendations.

(2) The Minister may by order refer any question or other matter to the Board for its recommendations.

1994 cM-26.1 s514

##### **Report**

**515(1)** On concluding an inquiry, the Board must prepare a report that includes its recommendations.

(2) The Board may make any recommendations it considers appropriate.

(3) The report must be delivered to the Minister.

1994 cM-26.1 s515

#### **Division 5 General Matters**

##### **Referral of unfair assessment to Minister**

**516** The Board may refer any assessment that it considers unfair and inequitable to the Minister and the Minister may deal with it under sections 571 and 324.

1994 cM-26.1 s516

##### **Required changes to rolls**

**517(1)** The municipality must make any changes to its assessment roll or tax roll, or both, that are necessary to reflect the decision of the Board.

(2) The Minister must make any changes to the Minister's assessment roll for linear property that are necessary to reflect the decision of the Board.

RSA 2000 cM-26 s517;2009 c29 s46

**Right to continue proceedings**

**518** A person who becomes an assessed person or taxpayer in respect of a property or business when a complaint or an appeal about the property or business is being dealt with under this Part may become a party to any proceedings started by the previous assessed person or taxpayer.

1994 cM-26.1 s518

**Obligation to pay taxes**

**519** Sending a written statement to the Board under section 491(1) does not relieve any person from the obligation to pay any taxes owing on the property or business or any penalties imposed for late payment of taxes.

1994 cM-26.1 s519

**Prohibition**

**520(1)** A member of the Board must not hear or vote on any decision or recommendation that relates to a matter in respect of which the member has a pecuniary interest.

**(2)** For the purposes of subsection (1), a member has a pecuniary interest in a matter to the same extent that a councillor would have a pecuniary interest in the matter as determined in accordance with section 170.

RSA 2000 cM-26 s520;2009 c29 s47

**Power of Board re contempt**

**521** A person who commits or does any act, matter or thing that would, if done in or in respect of the Court of Queen's Bench, constitute a contempt of the Court is in contempt of the Board, and on an application by the Board, the Court of Queen's Bench may commit that person for contempt of the Board, and the Court has the same power of committal in respect of contempt of the Board as it has in respect of contempt of the Court.

1994 cM-26.1 s521

**522** Repealed 2009 c29 s48.

**Rules re procedures**

**523** The Board may make rules regulating its procedures.

1994 cM-26.1 s523

**Powers of the Board**

**524(1)** The Board may request copies of statements, reports, documents or information of any kind from the designated officers of any local authority.

**(2)** The Board may request, in writing, copies of any certificates or certified copies of documents from the Registrars of Titles in the

different land registration districts, the Minister responsible for this Act or the Minister of Transportation.

(3) The Board or any member of the Board may at any time search the public records of the Land Titles Offices.

RSA 2000 cM-26 s524;2007 c16 s5;2013 c10 s21

#### **Admissible evidence at hearing**

**525(1)** A document purporting to have been issued by a corporation or any officer, agent or employee of a corporation, or by any other person for or on its behalf, may be considered by the Board as proof, in the absence of evidence to the contrary, that the document was issued by the corporation.

(2) A copy of

- (a) an assessment roll or tax roll or part of it, or
- (b) an assessment notice or tax notice,

that is certified by a designated officer as being a true copy of the original roll, part of the roll or notice is proof, in the absence of evidence to the contrary, of the existence and validity of the roll, part of the roll or notice and is admissible in evidence without proof of the appointment or signature of the designated officer.

(3) A statutory declaration signed by a designated officer is admissible in evidence as proof, in the absence of evidence to the contrary, that

- (a) an assessment notice was sent on the date shown on the assessment notice, or
- (b) a tax notice was sent on the date shown on the tax notice.

1994 cM-26.1 s525

#### **Decision admissible on judicial review**

**526** A copy of a decision of the Board that is certified by the person who presided at the hearing as being a true copy of the original decision is proof, in the absence of evidence to the contrary, of the decision and is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

1994 cM-26.1 s526

#### **Immunity**

**527** The members of the Board are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power, duty or function under this Part.

1994 cM-26.1 s527

**Regulations****527.1** The Minister may make regulations

- (a) respecting the training and qualifications of members of the Board and the administrator or the administrator's delegate;
- (b) respecting the setting by the administrator of the date, time and location for a hearing before the Board;
- (c) prescribing the period of time for purposes of section 494(1)(b);
- (d) respecting the conditions under which the administrator may appoint one member of the Board to sit as a panel of the Board;
- (e) respecting the procedures and functions of the Board;
- (f) governing the disclosure of evidence in a hearing before the Board;
- (g) respecting costs that may or must be imposed by the Board in respect of a hearing, including, without limitation, regulations respecting
  - (i) the circumstances in which costs must be imposed, and
  - (ii) the amount of costs;
- (h) respecting the circumstances under which a person may act as an agent for an assessed person or taxpayer at a hearing before the Board;
- (i) respecting the rendering of decisions by the Board;
- (j) respecting appeals under section 506;
- (k) setting fees payable by complainants, or by parties, interveners or others who appear at hearings before the Board or at inquiries conducted by the Board, and for obtaining copies of the Board's decisions and other documents.

RSA 2000 cM-26 s527.1;2009 c29 s49



**Part 13**  
**Liability of Municipalities,**  
**Enforcement of Municipal Law and**  
**Other Legal Matters**

**Division 1**  
**Liability of Municipalities**

**Acting in accordance with statutory authority**

**527.2** Subject to this and any other enactment, a municipality is not liable for damage caused by any thing done or not done by the municipality in accordance with the authority of this or any other enactment unless the cause of action is negligence or any other tort.

1999 c11 s29

**Non-negligence actions**

**528** A municipality is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, if the damage arises, directly or indirectly, from roads or from the operation or non-operation of

- (a) a public utility, or
- (b) a dike, ditch or dam.

1994 cM-26.1 s528

**Exercise of discretion**

**529** A municipality that has the discretion to do something is not liable for deciding not to do that thing in good faith or for not doing that thing.

1994 cM-26.1 s529

**Inspections and maintenance**

**530(1)** A municipality is not liable for damage caused by

- (a) a system of inspection, or the manner in which inspections are to be performed, or the frequency, infrequency or absence of inspections, and
- (b) a system of maintenance, or the manner in which maintenance is to be performed, or the frequency, infrequency or absence of maintenance.

**(2)** Repealed 1995 c24 s80.

1994 cM-26.1 s530;1995 c24 s80

**Snow on roads**

**531(1)** A municipality is only liable for an injury to a person or damage to property caused by snow, ice or slush on roads or

sidewalks in the municipality if the municipality is grossly negligent.

(2) A person who brings an action claiming gross negligence described in subsection (1) must notify the municipality of the event that gives rise to the action within 21 days after the occurrence of the event.

(3) Failure to notify the municipality bars the action unless

- (a) there is a reasonable excuse for the lack of notice, and the municipality is not prejudiced by the lack of notice,
- (b) death is the result of the event complained of, or
- (c) the municipality waives in writing the requirement for notice.

1994 cM-26.1 s531;1996 c30 s49

#### **Repair of roads, public places and public works**

**532(1)** Every road or other public place that is subject to the direction, control and management of the municipality, including all public works in, on or above the roads or public place put there by the municipality or by any other person with the permission of the municipality, must be kept in a reasonable state of repair by the municipality, having regard to

- (a) the character of the road, public place or public work, and
- (b) the area of the municipality in which it is located.

(2) The municipality is liable for damage caused by the municipality failing to perform its duty under subsection (1).

(3) This section does not apply to any road made or laid out by a private person or any work made or done on a road or place by a private person until the road or work is subject to the direction, control and management of the municipality.

(4) A municipality is not liable under this section unless the claimant has suffered by reason of the default of the municipality a particular loss or damage beyond what is suffered by the claimant in common with all other persons affected by the state of repair.

(5) A municipality is not liable under this section in respect of acts done or omitted to be done by persons exercising powers or authorities conferred on them by law, and over which the municipality has no control, if the municipality is not a party to those acts or omissions.

(6) A municipality is liable under this section only if the municipality knew or should have known of the state of repair.

(7) A municipality is not liable under this section if the municipality proves that it took reasonable steps to prevent the disrepair from arising.

(8) When a traffic control device has been defaced, removed or destroyed by someone other than a designated officer or employee or agent of the municipality, the municipality is liable under this section only if the municipality

- (a) had actual notice of the defacement, removal or destruction, and
- (b) failed to restore, repair or replace the traffic control device in a reasonable period of time.

(9) A person who brings an action under this section must notify the municipality of the event that gives rise to the action within 30 days after the occurrence of the event.

(10) Failure to notify the municipality bars the action unless

- (a) there is a reasonable excuse for the lack of notice, and the municipality is not prejudiced by the lack of notice,
- (b) death is the result of the event complained of, or
- (c) the municipality waives in writing the requirement for notice.

1994 cM-26.1 s532

#### **Things on or adjacent to roads**

**533** A municipality is not liable for damage caused

- (a) by the presence, absence or type of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on a road, or
- (b) by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or on a road that is not on the travelled portion of the road.

1994 cM-26.1 s533

#### **Public works affecting land**

**534(1)** In this section, “injurious affection” means, in respect of land, the permanent reduction in the appraised value of land as a

result of the existence, but not the construction, erection or use, of a public work or structure for which the municipality would be liable if the existence of the public work or structure were not under the authority of an enactment.

(2) Within one year after the construction or erection of a public work or structure is completed, as signified by the construction completion certificate, the municipality must deliver or mail to every owner of land that abuts land on which the public work or structure is situated, and place in a newspaper circulating in the municipality, a notice that

- (a) identifies the public work or structure,
- (b) gives the date of completion, and
- (c) states that claims for compensation under this section must be received within 60 days after the notice is published in the newspaper.

(3) Subject to subsection (4), an owner of land that abuts land on which a public work or structure is situated is entitled to compensation from the municipality for injurious affection to the owner's land.

(4) An owner of land described in subsection (3) is entitled to compensation under this section only if the owner files with the municipality a claim within 60 days after notice of the completion of the public work or structure is published in the newspaper.

(5) A claim must state the amount claimed and the particulars of the claim to prove the claim.

(6) The value of any advantage to a claimant's land derived from the existence of the public work or structure must be set off against the amount otherwise payable as compensation for injurious affection.

(7) No compensation is payable for injurious affection caused by

- (a) the existence of boulevards or dividers on a road for the purpose of channelling traffic, or
- (b) the restriction of traffic to one direction only on any road.

(8) No action or claim for injurious affection may be made except under this section.

(9) If the claimant and the municipality are not able to agree on the amount of compensation for injurious affection, the claimant and the municipality may agree to have the amount determined by binding arbitration under the *Arbitration Act*.

- (10) If the claimant and the municipality do not agree to have the amount of compensation for injurious affection determined by binding arbitration, the amount of compensation for injurious affection must be determined by the Land Compensation Board.
- (11) Subject to the regulations made under subsection (15), the Land Compensation Board may follow the practices and procedures used under the *Expropriation Act*.
- (12) Except in exceptional circumstances, the Land Compensation Board may not award legal costs on a solicitor-client basis in respect of a proceeding under this section.
- (13) An appeal lies to the Court of Appeal from any determination or order of the Land Compensation Board under this section.
- (14) Section 37 of the *Expropriation Act* applies to an appeal under subsection (13).
- (15) The Minister may make regulations
- (a) respecting the practice and procedure of a proceeding before the Land Compensation Board under this section;
  - (b) subject to subsection (12), respecting costs that may be awarded by the Land Compensation Board in respect of a proceeding under this section.
- (16) This section applies only in respect of public works and structures for which a construction completion certificate is issued after this section comes into force.

RSA 2000 cM-26 s534;2007 c16 s4

## Division 2 Liability of Councillors and Others

### Protection of councillors and municipal officers

**535(1)** In this section,

- (a) “municipal officers” means
  - (i) the chief administrative officer and designated officers, and
  - (ii) employees of the municipality;
- (b) “volunteer worker” means a volunteer member of a fire or ambulance service or emergency measures organization established by a municipality, or any other volunteer performing duties under the direction of a municipality.

(2) Councillors, council committee members, municipal officers and volunteer workers are not liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other enactment.

(3) Subsection (2) is not a defence if the cause of action is defamation.

(4) This section does not affect the legal liability of a municipality.  
RSA 2000 cM-26 s535;2002 c19 s19

#### **Protection of sporting commissions**

**535.1(1)** In this section, “commission” means a commission established by bylaw for controlling and regulating any of the following:

- (a) boxing;
- (b) wrestling;
- (c) full contact karate;
- (d) kickboxing;
- (e) any other sport that holds contests where opponents strike each other with a hand, foot, knee, elbow or other part of the body.

(2) A commission and its members, officers, employees and any volunteers and officials performing duties under the direction of any of them are not liable for anything said or done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers under this Act or any other enactment.

(3) Subsection (2) is not a defence if the cause of action is defamation.

2002 c19 s19;2003 c43 s2

#### **Protection of fire service organizations**

**535.2(1)** In this section,

- (a) “fire service organization” means
  - (i) a municipality that provides, through a department, branch or other part of the municipality, fire services for that municipality or on behalf of one or more municipal authorities;

- (ii) a regional services commission that provides fire services within its service area;
  - (iii) a special areas board or the Minister, in the case of a special area or an improvement district, who provides fire services for the special area or improvement district or on behalf of one or more municipal authorities;
  - (iv) a corporation or other entity, other than a municipal authority or regional services commission, that provides fire services in one or more municipal authorities in accordance with an agreement with, or at the request of, the municipal authority or municipal authorities;
- (b) “firefighter” means a member, including a volunteer, of a fire service organization whose functions, duties or powers are to carry out fire services, notwithstanding that the member may carry out other functions, duties or powers for the fire service organization;
- (c) “fire services” means services related to the suppression or prevention of fires, rescue and emergency services and other activities of a firefighter.

(2) Fire service organizations, members of a regional services commission and firefighters are not liable for loss or damage caused by anything done or omitted to be done in good faith in the performance or intended performance of their functions, duties or powers in providing or carrying out fire services.

(3) Subsection (2) does not apply in the case of an accident involving a motor vehicle.

2009 c49 s2

### **Division 3 Challenging Bylaws and Resolutions**

#### **Application to the Court of Queen’s Bench**

**536(1)** A person may apply to the Court of Queen’s Bench for

- (a) a declaration that a bylaw or resolution is invalid, or
- (b) an order requiring a council to amend or repeal a bylaw as a result of a vote by the electors on the amendment or repeal.

(2) A judge may require an applicant to provide security for costs in an amount and manner established by the judge.

RSA 2000 cM-26 s536;2009 c53 s119

**Procedure**

**537** A person who wishes to have a bylaw or resolution declared invalid on the basis that

- (a) the proceedings prior to the passing of the bylaw or resolution, or
- (b) the manner of passing the bylaw or resolution

does not comply with this or any other enactment must make an application within 60 days after the bylaw or resolution is passed.

1994 cM-26.1 s537

**Validity relating to public participation**

**538** Despite section 537, a person may apply at any time

- (a) for a declaration that a bylaw is invalid if
  - (i) the bylaw is required to be put to a vote of electors and the vote has not been conducted or if the bylaw was not given the required approval in such a vote,
  - (ii) the bylaw is required to be advertised and it was not advertised, or
  - (iii) a public hearing is required to be held in respect of the bylaw and the public hearing was not held,

or

- (b) for an order requiring a council to pass a bylaw as a result of a vote by the electors.

1994 cM-26.1 s538

**Reasonableness**

**539** No bylaw or resolution may be challenged on the ground that it is unreasonable.

1994 cM-26.1 s539

**Effect of councillor being disqualified**

**540** No bylaw, resolution or proceeding of a council and no resolution or proceeding of a council committee may be challenged on the ground that

- (a) a person sitting or voting as a councillor
  - (i) is not qualified to be on council,
  - (ii) was not qualified when the person was elected, or



- (iii) after the election, ceased to be qualified, or became disqualified,
  - (b) the election of one or more councillors is invalid,
  - (c) a councillor has resigned because of disqualification,
  - (d) a person has been declared disqualified from being a councillor,
  - (e) a councillor did not take the oath of office,
  - (f) a person sitting or voting as a member of a council committee
    - (i) is not qualified to be on the committee,
    - (ii) was not qualified when the person was appointed, or
    - (iii) after being appointed, ceased to be qualified, or became disqualified,
- or
- (g) there was a defect in the appointment of a councillor or other person to a council committee.

1994 cM-26.1 s540

#### **Division 4**

### **Enforcement of Municipal Law**

#### **Definitions**

**541** In this Division,

- (a) “emergency” includes a situation in which there is imminent danger to public safety or of serious harm to property;
- (b) “structure” means a structure as defined in section 284.

1994 cM-26.1 s541;1999 c11 s30

#### **Municipal inspections and enforcement**

**542(1)** If this or any other enactment or a bylaw authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter on that land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the enactment or bylaw,

- (b) request anything to be produced to assist in the inspection, remedy, enforcement or action, and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

**(1.1)** A consent signed under section 653 is deemed to be a reasonable notice for the purposes of subsection (1).

**(2)** The designated officer must display or produce on request identification showing that the person is authorized to make the entry.

**(3)** In an emergency or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things in subsection (1)(a) and (c) without the consent of the owner or occupant.

**(4)** Nothing in this section authorizes the municipality to remedy the contravention of an enactment or bylaw.

1994 cM-26.1 s542;1995 c24 s81

#### **Court authorized inspections and enforcement**

**543(1)** If a person

- (a) refuses to allow or interferes with the entry, inspection, enforcement or action referred to in section 542, or
- (b) refuses to produce anything to assist in the inspection, remedy, enforcement or action referred to in section 542,

the municipality may apply to the Court of Queen's Bench for an order under subsection (2).

**(2)** The Court may issue an order

- (a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action, or
- (b) requiring the production of anything to assist in the inspection, remedy, enforcement or action.

**(3)** A copy of the application and a copy of each affidavit in support must be served at least 3 days before the day named in the application for the hearing.

**(4)** In an emergency or in extraordinary circumstances, the Court may hear the application without notice to any person.

RSA 2000 cM-26 s543;2009 c53 s119

**Inspecting meters**

**544(1)** If a designated officer of a municipality believes that a meter that measures a public utility has been tampered with, the designated officer may apply to a judge of the Provincial Court for an order authorizing one or more employees of the municipality

- (a) to enter on any land or structure in which the meter is located, and
- (b) to inspect and test the meter.

**(2)** The judge of the Provincial Court may issue the order on being satisfied by evidence of the designated officer under oath that there are reasonable grounds to believe the meter has been tampered with.

**(3)** The judge of the Provincial Court may hear the application without notice to any person.

RSA 2000 cM-26 s544;2008 c32 s21

**Order to remedy contraventions**

**545(1)** If a designated officer finds that a person is contravening this or any other enactment that the municipality is authorized to enforce or a bylaw, the designated officer may, by written order, require the person responsible for the contravention to remedy it if the circumstances so require.

**(2)** The order may

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw, and, if necessary, to prevent a re-occurrence of the contravention;
- (c) state a time within which the person must comply with the directions;
- (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.

1994 cM-26.1 s545

**Order to remedy dangers and unsightly property**

**546(0.1)** In this section,

- (a) “detrimental to the surrounding area” includes causing the decline of the market value of property in the surrounding area;
- (b) “unsightly condition”,
  - (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and
  - (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.

**(1)** If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order

- (a) require the owner of the structure to
  - (i) eliminate the danger to public safety in the manner specified, or
  - (ii) remove or demolish the structure and level the site;
- (b) require the owner of the land that contains the excavation or hole to
  - (i) eliminate the danger to public safety in the manner specified, or
  - (ii) fill in the excavation or hole and level the site;
- (c) require the owner of the property that is in an unsightly condition to
  - (i) improve the appearance of the property in the manner specified, or
  - (ii) if the property is a structure, remove or demolish the structure and level the site.

**(2)** The order may

- (a) state a time within which the person must comply with the order;
- (b) state that if the person does not comply with the order within a specified time, the municipality will take the action or measure at the expense of the person.

1994 cM-26.1 s546;1999 c11 s31

**Caveat**

**546.1(1)** A municipality may register a caveat under the *Land Titles Act* in respect of an order made under section 545 or 546 dealing with a dangerous structure, excavation or hole or unsightly property against the certificate of title for the land that is the subject of the order.

**(2)** If a municipality registers a caveat under subsection (1), the municipality must discharge the caveat when the order has been complied with or when the municipality has performed the actions or measures referred to in the order.

1999 c11 s32

**Review by council**

**547(1)** A person who receives a written order under section 545 or 546 may by written notice request council to review the order within

- (a) 14 days after the date the order is received, in the case of an order under section 545, and
- (b) 7 days after the date the order is received, in the case of an order under section 546,

or any longer period as specified by bylaw.

**(2)** After reviewing the order, the council may confirm, vary, substitute or cancel the order.

1994 cM-26.1 s547;1999 c11 s33

**Appeal to Court of Queen's Bench**

**548(1)** A person affected by the decision of a council under section 547 may appeal to the Court of Queen's Bench if

- (a) the procedure required to be followed by this Act is not followed, or
- (b) the decision is patently unreasonable.

**(1.1)** The appeal must be made,

- (a) in the case of an appeal of an order under section 545, within 30 days after the date the decision under section 547 is served on the person affected by the decision, and
- (b) in the case of an appeal of an order under section 546, within 15 days after the date the decision under section 547 is served on the person affected by the decision.

**(2)** The application for the appeal must state the reasons for the appeal.

- (3) The Court may
- (a) confirm the decision, or
  - (b) declare the decision invalid and send the matter back to the council with directions.

1994 cM-26.1 s548;1999 c11 s34

#### **Municipality remedying contraventions**

**549(1)** A municipality may take whatever action or measures are necessary to remedy a contravention of this Act, an enactment that the municipality is authorized to enforce or a bylaw or to prevent a re-occurrence of the contravention if

- (a) the municipality has given a written order under section 545,
- (b) the order contains a statement referred to in section 545(2)(d),
- (c) the person to whom the order is directed has not complied with the order within the time specified in the order, and
- (d) the appeal periods respecting the order have passed or, if an appeal has been made, the appeal has been decided and it allows the municipality to take the action or measures.

(2) If the order directed that premises be put and maintained in a sanitary condition, the municipality may, under this section, close the premises and use reasonable force to remove occupants.

(3) The expenses and costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who contravened the enactment or bylaw.

1994 cM-26.1 s549

#### **Municipality remedying dangers and unsightly property**

**550(1)** A municipality may take whatever actions or measures are necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property if

- (a) the municipality has given a written order under section 546,
- (b) the order contains a statement referred to in section 546(2)(b),
- (c) the person to whom the order is directed has not complied with the order within the time specified in the order, and

(d) the appeal periods respecting the order have passed or, if an appeal has been made, the appeal has been decided and it allows the municipality to take the action or measures.

(2) If a structure is being removed or demolished by a municipality under this section, the municipality may use reasonable force to remove occupants.

(3) The expenses and costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who was required to do something by the order under section 546.

(4) If the municipality sells all or a part of a structure that has been removed under this section, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.

1994 cM-26.1 s550

#### **Emergencies**

**551(1)** Despite sections 549 and 550, in an emergency a municipality may take whatever actions or measures are necessary to eliminate the emergency.

(2) This section applies whether or not the emergency involves a contravention of this Act, an enactment that the municipality is authorized to enforce or a bylaw.

(3) A person who receives an oral or written order under this section requiring the person to provide labour, services, equipment or materials must comply with the order.

(4) Any person who provides labour, services, equipment or materials under this section who did not cause the emergency is entitled to reasonable remuneration from the municipality.

(5) The expenses and costs of the actions or measures, including the remuneration referred to in subsection (4), are an amount owing to the municipality by the person who caused the emergency.

1994 cM-26.1 s551

#### **Recovery of amounts owing by civil action**

**552** Except as provided in this or any other enactment, an amount owing to a municipality may be collected by civil action for debt in a court of competent jurisdiction.

1994 cM-26.1 s552

#### **Adding amounts owing to tax roll**

**553(1)** A council may add the following amounts to the tax roll of a parcel of land:

- (a) unpaid costs referred to in section 35(4) or 39(2) relating to service connections of a municipal public utility that are owing by the owner of the parcel;
  - (b) unpaid charges referred to in section 42 for a municipal utility service provided to the parcel by a municipal public utility that are owing by the owner of the parcel;
  - (c) unpaid expenses and costs referred to in section 549(3), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or a part of the parcel;
  - (d), (e) repealed 1999 c11 s35;
  - (f) costs associated with tax recovery proceedings related to the parcel;
  - (g) if the municipality has passed a bylaw making the owner of a parcel liable for expenses and costs related to the municipality extinguishing fires on the parcel, unpaid costs and expenses for extinguishing fires on the parcel;
  - (g.1) if the municipality has passed a bylaw requiring the owner or occupant of a parcel to keep the sidewalks adjacent to the parcel clear of snow and ice, unpaid expenses and costs incurred by the municipality for removing the snow and ice in respect of the parcel;
  - (h) unpaid costs awarded by a composite assessment review board under section 468.1 or the Municipal Government Board under section 501, if the composite assessment review board or the Municipal Government Board has awarded costs against the owner of the parcel in favour of the municipality and the matter before the composite assessment review board or the Municipal Government Board was related to the parcel;
  - (h.1) the expenses and costs of carrying out an order under section 646;
  - (i) any other amount that may be added to the tax roll under an enactment.
- (2)** Subject to section 659, when an amount is added to the tax roll of a parcel of land under subsection (1), the amount
- (a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and



- (b) forms a special lien against the parcel of land in favour of the municipality from the date it was added to the tax roll.

RSA 2000 cM-26 s553;2009 c29 s50

#### **Adding amounts owing to property tax roll**

**553.1(1)** If a person described in any of the following clauses owes money to a municipality in any of the circumstances described in the following clauses, the municipality may add the amount owing to the tax roll of any property for which the person is the assessed person:

- (a) a person who was a licensee under a licence of occupation granted by the municipality and who, under the licence, owes the municipality for the costs incurred by the municipality in restoring the land used under the licence;
- (b) an agreement holder referred to in section 27.4(1) who owes money to the municipality under section 27.4(1);
- (c) a person who owes money to the municipality under section 550(3) or 551(5).

**(2)** Subject to section 659, when an amount is added to the tax roll of property under subsection (1), the amount

- (a) is deemed for all purposes to be a tax imposed under Division 2 of Part 10 from the date it was added to the tax roll, and
- (b) forms a special lien against the property in favour of the municipality from the date it was added to the tax roll.

1999 c11 s36

#### **Adding amounts owing to business tax roll**

**553.2(1)** In this section, “business tax roll” means the portion of a municipality’s tax roll for taxable businesses.

**(2)** If a person described in any of the following clauses owes money to a municipality in any of the circumstances described in the following clauses, the municipality may add the amount owing to the business tax roll against any business operated by the person:

- (a) a person who was a licensee under a licence of occupation granted by the municipality and who, under the licence, owes the municipality for the costs incurred by the municipality in restoring the land used under the licence;
- (b) a person who owes money to the municipality under section 550(3) or 551(5).

(3) Subject to section 659, when an amount is added to the business tax roll under subsection (2) against a business, the amount is deemed for all purposes to be a tax imposed under Division 3 of Part 10 from the date it was added to the tax roll.

1999 c11 s36

### **Injunction**

**554(1)** When

- (a) a structure is being constructed in contravention of an enactment that a municipality is authorized to enforce or a bylaw,
- (b) a contravention of this Act, another enactment that a municipality is authorized to enforce or a bylaw is of a continuing nature, or
- (c) any person is carrying on business or is doing any act, matter or thing without having paid money required to be paid by a bylaw,

in addition to any other remedy and penalty imposed by this or any other enactment or a bylaw, the municipality may apply to the Court of Queen's Bench for an injunction or other order.

(2) The Court may grant or refuse the injunction or other order or may make any other order that in its opinion the justice of the case requires.

RSA 2000 cM-26 s554;2009 c53 s119

### **Municipality's costs in actions**

**554.1(1)** A municipality is entitled to collect lawful costs in all actions and proceedings to which the municipality is a party.

(2) The costs of a municipality in an action or proceeding in which the municipality is a party are not to be disallowed or reduced because the municipality's lawyer in the action or proceeding is an employee of the municipality.

RSA 2000 cM-26 s554.1;2009 c53 s119

### **Bylaw enforcement officers**

**555(1)** A person who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, responsible for the preservation and maintenance of the public peace.

(2) Bylaw enforcement officers must take the official oath prescribed by the *Oaths of Office Act* before starting their duties.

1994 cM-26.1 s555

### **Powers and duties of bylaw enforcement officers**

**556** Every council must by bylaw

- (a) specify the powers and duties of bylaw enforcement officers, and
- (b) establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officers.

1994 cM-26.1 s556

## **Division 5 Offences and Penalties**

### **General offences**

**557** A person who contravenes or does not comply with

- (a) a provision of this Division,
  - (a.1) a provision of Part 17 or the regulations under Part 17,
  - (a.2) a land use bylaw as defined in Part 17,
  - (a.3) an order under section 645,
  - (a.4) a development permit or subdivision approval or a condition of a permit or approval under Part 17,
  - (a.5) a decision of a subdivision and development appeal board or the Municipal Government Board under Part 17,
  - (a.6) section 436.24,
- (b) a direction or order of the Minister,
- (c) an order under section 545, 546, 551 or 567, or
- (d) section 436.05,

or who obstructs or hinders any person in the exercise or performance of the person's powers under Part 17 or the regulations under Part 17, is guilty of an offence.

1994 cM-26.1 s557;1995 c24 s84;1998 c24 s55;1999 c11 s37

### **Offences applicable to officials**

**558** No chief administrative officer or designated officer may

- (a) fail to discharge the duties of office imposed by this or any other enactment or bylaw,
- (b) sign any statement, report or return required by this or any other enactment or bylaw knowing that it contains a false statement, or

- (c) fail to hand over to a successor in office, or to the persons designated in writing by the council or the Minister, all money, books, papers and other property of a municipality.

1994 cM-26.1 s558

**Unauthorized use of heraldic emblems**

**559** No person may use the heraldic emblem of the municipality or anything that is intended to resemble the heraldic emblem without the permission of council.

1994 cM-26.1 s559

**Documents used to enforce bylaws**

**560(1)** No person may issue a form that a municipality uses to enforce its bylaws unless the person has the authority to enforce those bylaws.

**(2)** No person may use a form that resembles a form that a municipality uses to enforce its bylaws with the intent of making others think that the form was issued by the municipality.

1994 cM-26.1 s560

**561** Repealed 1994 cM-26.1 s738.

**Obstructing construction of public work or utilities**

**562** No person may interfere with the construction, maintenance, operation or repair of a public work or public utility.

1994 cM-26.1 s562

**Stop-cock**

**563** If a municipality has placed a stop-cock in a building as part of a municipal public utility, no owner or occupant of the building may use the stop-cock except to prevent damage to the building or the system or works of the public utility or to prevent or stop the flooding of the building.

1994 cM-26.1 s563

**Operating a business without a licence**

**564** In a prosecution for contravention of a bylaw against engaging in or operating a business without a licence, proof of one transaction in the business or that the business has been advertised is sufficient to establish that a person is engaged in or operates the business.

1994 cM-26.1 s564

**Prosecutions**

**565** A prosecution under this Act or a bylaw may be commenced within 2 years after the date of the alleged offence, but not afterwards.

1994 cM-26.1 s565

**Penalty**

**566(1)** Subject to subsection (2), a person who is found guilty of an offence under this Act is liable to a fine of not more than \$10 000 or to imprisonment for not more than one year, or to both fine and imprisonment.

**(2)** The minimum fine for a person who is found guilty of contravening or not complying with an order under section 546 or 551 is \$300.

1994 cM-26.1 s566

**Order for compliance**

**567** If a person is found guilty of an offence under this Act or a bylaw, the court may, in addition to any other penalty imposed, order the person to comply with this Act or bylaw or a licence, permit or other authorization issued under the bylaw, or a condition of any of them.

1994 cM-26.1 s567

**Fines and penalties**

**568** Fines and penalties imposed on a conviction for an offence under this Act or a bylaw are an amount owing to the municipality in which the offence occurred.

1994 cM-26.1 s568

**Civil liability not affected**

**569** A person who is guilty of an offence under this Act may also be liable in a civil proceeding.

1994 cM-26.1 s569

## **Part 14**

### **General Ministerial Powers**

**Intermunicipal disagreements**

**570** If a disagreement between municipalities is referred to the Minister by a council of a municipality or if the Minister is satisfied that it is desirable for the Minister to become involved in a disagreement between municipalities, the Minister may do one or more of the following:

- (a) conduct any investigation or inquiry that the Minister considers to be appropriate;
- (b) appoint a mediator to assist the municipalities in resolving the disagreement;
- (c) make a decision to settle the disagreement and order the municipalities to implement the decision.

1994 cM-26.1 s570;1996 c30 s50

**Measures to ensure compliance with ALSA regional plans**

**570.01(1)** If the Minister considers that a municipal authority, regional services commission or growth management board has not complied with an ALSA regional plan, the Minister may take any necessary measures to ensure that the municipal authority, regional services commission or growth management board, as the case may be, complies with the ALSA regional plan.

**(2)** In subsection (1), all necessary measures includes, without limitation, an order by the Minister

- (a) suspending the authority of a council to make bylaws in respect of any matter specified in the order;
- (b) exercising bylaw-making authority in respect of all or any of the matters for which bylaw-making authority is suspended under clause (a);
- (c) removing a suspension of bylaw-making authority, with or without conditions;
- (d) withholding money otherwise payable by the Government to the municipal authority, regional services commission or growth management board pending compliance with an order of the Minister;
- (e) repealing, amending and making policies and procedures with respect to the municipal authority, regional services commission or growth management board;
- (f) suspending the authority of a development authority or subdivision authority and providing for a person to act in its place pending compliance with conditions specified in the order;
- (g) requiring or prohibiting any other action as necessary to ensure an ALSA regional plan is complied with.

2009 cA-26.8 s83;2013 c17 s3

**Information**

**570.1** The Minister may provide a municipality with any information on the assessment of property the Minister may have whether the property is located in the municipality or elsewhere.

1995 c24 s85

**Inspection**

**571(1)** The Minister may require any matter connected with the management, administration or operation of any municipality or any assessment prepared under Part 9 to be inspected

- (a) on the Minister's initiative, or

- (b) on the request of the council of the municipality.
- (2) The Minister may appoint one or more persons as inspectors for the purpose of carrying out inspections under this section.
- (3) An inspector
  - (a) may require the attendance of any officer of the municipality or of any other person whose presence the inspector considers necessary during the course of the inspection, and
  - (b) has the same powers, privileges and immunities as a commissioner under the *Public Inquiries Act*.
- (4) When required to do so by an inspector, the chief administrative officer of the municipality must produce for examination and inspection all books and records of the municipality.
- (5) After the completion of the inspection, the inspector must make a report to the Minister and, if the inspection was made at the request of a council, to the council.

1994 cM-26.1 s571

**Inquiry**

- 572(1)** The Minister may order an inquiry described in subsection (2) if the Minister receives
- (a) a sufficient petition requesting the inquiry that is signed,
    - (i) in the case of a municipality other than a summer village, by electors of the municipality equal in number to at least 20% of the population, and
    - (ii) in the case of a summer village, by at least 20% of the electors of the summer village,
  - or
  - (b) a request for the inquiry from a council.
- (2) An inquiry may be conducted into
- (a) the affairs of the municipality,
  - (b) the conduct of a councillor, or an employee or agent of the municipality, or
  - (c) the conduct of a person who has an agreement with the municipality relating to the duties or obligations of the municipality or a person under the agreement.

- (3) The Minister may appoint one or more persons to conduct an inquiry under this section.
- (4) The person or persons appointed to conduct an inquiry are entitled to the fees and expenses specified by the Minister and the Minister may direct who is to pay for the inquiry.
- (5) The person or persons appointed to conduct an inquiry have all the powers and duties of a commissioner appointed under the *Public Inquiries Act*.
- (6) The person or persons appointed to conduct an inquiry must report to the Minister and the council and, if there was a petition under subsection (1)(a), to the representative of the petitioners.

1994 cM-26.1 s572

**Bank accounts**

**573** A bank, an agency of a bank or any other financial institution carrying on business in Alberta must, on request of the Minister, furnish the Minister with a statement showing the balance or condition of the accounts of any municipality having an account with the bank, agency or institution, together with any particulars of the accounts that may be required.

1994 cM-26.1 s573

**Directions and dismissal**

- 574(1)** If, because of an inspection under section 571, an inquiry under section 572 or an audit under section 282, the Minister considers that a municipality is managed in an irregular, improper or improvident manner, the Minister may by order direct the council, the chief administrative officer or a designated officer of the municipality to take any action that the Minister considers proper in the circumstances.
- (2) If an order of the Minister under this section is not carried out to the satisfaction of the Minister, the Minister may dismiss the council or any member of it or the chief administrative officer.
- (3) On the dismissal of the council or of any member of it, the Minister may direct the election of a new council or of a member of council to take the place of any member that has been dismissed.
- (4) On the dismissal of the chief administrative officer, the Minister may appoint another officer and specify the remuneration that is payable to the officer by the municipality.
- (5) The Minister may appoint an official administrator
- (a) on the dismissal of a council, or



- (b) on the dismissal of one or more councillors if the remaining councillors do not constitute a quorum.

(6) An official administrator appointed under subsection (5) has all the powers and duties of the council.

1994 cM-26.1 s574

#### **Official administrator as supervisor**

**575(1)** The Minister may at any time appoint an official administrator to supervise a municipality and its council.

(2) So long as the appointment of an official administrator under this section continues,

- (a) no bylaw or resolution that authorizes the municipality to incur a liability or to dispose of its money or property has any effect until the bylaw or resolution has been approved in writing by the official administrator, and
- (b) the official administrator may at any time within 30 days after the passing of any bylaw or resolution disallow it, and the bylaw or resolution so disallowed becomes and is deemed to have always been void.

1994 cM-26.1 s575

#### **Remuneration for official administrator**

**576** When an official administrator is appointed for a municipality by the Minister under this Act, the remuneration and expenses of the official administrator as set by the Minister must, if required by the Minister, be paid by the municipality.

1994 cM-26.1 s576

#### **Providing Minister with copies and information**

**577(1)** The Minister may direct a municipality to provide a copy of any document in the possession of the municipality to the Minister within the time specified by the Minister.

(2) The Minister may direct a municipality to provide information or statistics respecting the municipality to the Minister within the time specified by the Minister.

(3) A municipality must comply with a direction of the Minister under this section and provide the copy, information or statistics to the Minister without charge.

(4) This section does not apply to documents that have been prepared or information acquired by a municipality that is subject to any type of legal privilege, including solicitor-client privilege.

1994 cM-26.1 s577

**Delegation**

**578(1)** The Minister may delegate in writing to any person any power, duty or function of the Minister under this Act, including any power, duty or function that involves the Minister forming an opinion or belief.

**(2)** Subsection (1) does not apply to any power or duty to make regulations.

1994 cM-26.1 s578

**Fees**

**579(1)** The Minister may charge fees in connection with any service, program or other thing done by or under the authority of the Minister under this Act or the regulations.

**(2)** A person who receives a service, program or other thing done by or under the authority of the Minister is liable to pay the fee established under subsection (1) to the Government of Alberta and the fee may be collected by civil action for debt in a court of competent jurisdiction.

1994 cM-26.1 s579

**Regulations**

**580** The Minister may make regulations requiring a municipality to publish in a specified manner any information respecting the municipality that is specified in the regulations.

1994 cM-26.1 s580

## **Part 15 Improvement Districts**

**Formation order**

**581** The Lieutenant Governor in Council, on the recommendation of the Minister, may by order form an improvement district.

1994 cM-26.1 s581

**Contents of order**

**582** The formation order must

- (a) describe the boundaries of the improvement district, and
- (b) give the improvement district an official name.

1994 cM-26.1 s582

**Changes to improvement districts**

**583(1)** The Minister may by order

- (a) amalgamate 2 or more improvement districts;
- (b) divide an improvement district into 2 or more improvement districts;

- (c) annex land from an improvement district to another improvement district;
- (d) change the name of an improvement district;
- (e) establish industrial improvement areas within improvement districts;
- (f) dissolve an improvement district.

(2) An order under this section may contain terms and conditions and provisions dealing with transitional matters that the Minister considers to be appropriate that operate despite this or any other enactment.

1994 cM-26.1 s583

#### **Orders published**

**584** An order of the Lieutenant Governor in Council under section 581 and the Minister under section 583 must be published in The Alberta Gazette.

1994 cM-26.1 s584

#### **Regulations Act**

**585** The *Regulations Act* does not apply to an order of the Lieutenant Governor in Council under section 581 or to an order of the Minister under this Part.

1994 cM-26.1 s585

#### **Application of other enactments**

**586** The Minister may by order

- (a) provide that provisions of this or any other enactment do not apply to an improvement district,
- (b) provide that provisions of this or any other enactment apply to an improvement district with or without modifications, and
- (c) specify provisions that are to be added to or replace the provisions of this or any other enactment in respect of an improvement district.

1994 cM-26.1 s586

#### **General power of Minister**

**587** The Minister may by order do anything in respect of an improvement district that a council of a municipality may do under this or another enactment.

1994 cM-26.1 s587

**Council**

**588(1)** The Minister may establish a council for an improvement district.

(2) Unless subsection (3) applies, a council is composed of one or more councillors appointed by the Minister.

(3) The Minister may by order

- (a) direct that some or all of the councillors are to be elected,
- (b) establish wards for the elected councillors, and
- (c) provide for any matter dealing with the transition from an appointed council to a council with some or all elected members.

(4) If the Minister orders that some or all of the councillors are to be elected, the *Local Authorities Election Act* applies to the election as modified by directions given by the Minister.

1994 cM-26.1 s588

**Expense allowance**

**588.1(1)** In this section, “remuneration” includes salaries, indemnities, honorariums and allowances.

(2) One third of the remuneration paid in 1999 and later years from the trust account established for an improvement district to an elected councillor of the improvement district is deemed to be an allowance for expenses that are incidental to the discharge of the councillor’s duties.

(3) Subsection (2) does not apply to an elected councillor’s remuneration paid in a year if there is in force during all or any part of that year an order of the Minister establishing that a portion other than 1/3 of the councillor’s remuneration is an allowance for expenses that are incidental to the discharge of the councillor’s duties.

1999 c32 s14

**Delegation by Minister**

**589(1)** The Minister may, in writing, delegate to any person or to a council of an improvement district any of the powers, duties and functions of the Minister under this or any other enactment relating to an improvement district, including the powers, duties and functions of being a trustee under section 595.

(2) The Minister may not delegate the power or duty to make a regulation as defined in the *Regulations Act*.

1994 cM-26.1 s589

**Hamlets**

**590(1)** The Minister may designate an unincorporated community that is within the boundaries of an improvement district to be a hamlet.

**(2)** The designation of a hamlet must specify the hamlet's name and boundaries.

1994 cM-26.1 s590

**Employees**

**591** In accordance with the *Public Service Act*, there may be appointed any person necessary for the administration of an improvement district.

1994 cM-26.1 s591

**Roads**

**592(1)** The Minister of Transportation and the Minister responsible for this Act may enter into an agreement providing that all or part of the direction, control and management of roads within an improvement district is transferred to the Minister responsible for this Act.

**(2)** An agreement under subsection (1) may provide for the payment of costs with respect to roads within the improvement district.

RSA 2000 cM-26 s592;2013 c10 s21

**Estimate of expenditures**

**593** Before January 1 in each year, every Minister charged with the duty of expending any part of the taxes collected in an improvement district must send to the Minister responsible for this Act a statement, with reference to each improvement district, of the estimated amount required to be expended by the expending Minister in each improvement district during the current year.

1994 cM-26.1 s593

**Machinery and equipment and linear property**

**594(1)** The definitions of "linear property" and "machinery and equipment" in Part 9 apply to this section.

**(2)** The Minister may by order impose, in addition to any other taxes imposed under Part 10, an additional tax on machinery and equipment and linear property located in an industrial improvement area.

**(3)** The provisions in Parts 9 to 12 relating to machinery and equipment and linear property apply to the additional tax imposed under this section.

1994 cM-26.1 s594

**Trust account for revenue**

**595** The taxes and all other revenues collected on behalf of an improvement district must be deposited in a treasury branch, bank or other similar institution to be held in trust by the Minister.

1994 cM-26.1 s595

**Expenditures**

**596(1)** The taxes and all other revenues collected on behalf of an improvement district may be expended under the direction of the Minister

- (a) to meet the requirements of the improvement district,
- (b) to pay requisitions made under the *School Act*, the *Hospitals Act* and the *Regional Health Authorities Act*,
- (c) to pay the estimated amounts referred to in section 593 or an equally proportionate part of those amounts if the taxes and revenues collected on behalf of the improvement district are not sufficient to cover all of the improvement district's expenditures, or
- (d) to pay to other municipalities that portion of the taxes levied and collected under section 594 that the Minister may by order determine.

**(2)** The expenses incidental to the assessment and collection of taxes on behalf of an improvement district and any other necessary expenses in connection with the administration of affairs in an improvement district are a first charge on the taxes and other revenue collected on behalf of the district.

1994 cM-26.1 s596;1994 cR-9.07 s25(24)

**Public accounts**

**597** The details of expenditures for an improvement district must be published in the public accounts annually submitted to the Legislative Assembly.

1994 cM-26.1 s597

**Settlement of accounts**

**598** If the Minister considers it equitable, the Minister may settle in whole or in part any amounts owing to the Crown or to the Minister under this Act or any other Act relating to an improvement district for rentals, fees or other charges, other than taxes imposed under Part 10.

1994 cM-26.1 s598

**Investments**

**599** With the consent of the President of Treasury Board and Minister of Finance, the Minister may invest any taxes or revenue collected on behalf of an improvement district in investments that

the President of Treasury Board and Minister of Finance is authorized to invest in under section 43(1) of the *Financial Administration Act*.

RSA 2000 cM-26 s599;2006 c23 s57;2013 c10 s21

#### **Borrowing**

**600** The Minister may borrow on the security of the taxes and other revenues of an improvement district any sums required to meet the requirements of the district under this or any other enactment.

1994 cM-26.1 s600

#### **Acquisition of land**

**601** The Minister may purchase, expropriate or otherwise acquire land required for or in connection with the administration of an improvement district or for the purposes of an agreement entered into under section 602 and the Minister may encumber, lease or otherwise dispose of the land as the circumstances require.

1994 cM-26.1 s601

#### **Agreements for services**

**602** The Minister may enter into agreements with the Government of Canada or its agencies or with any other public body or person for the purpose of obtaining any service, benefit or other advantages for the whole or part of an improvement district or for its residents.

1994 cM-26.1 s602

## **Part 15.1 Regional Services Commissions**

#### **Interpretation**

**602.01(1)** In this Part,

- (a) “board” means the board of directors of a commission;
- (b) “borrowing” means a borrowing within the meaning of that term under section 241;
- (c) “capital property” means capital property within the meaning of that term under section 241;
- (d) “commission” means a regional services commission;
- (e) “member” means, in respect of a commission, a municipal authority that is a member of the commission;
- (f) “municipal authority” means a municipal authority as defined in section 1(1)(p), and includes a Metis settlement, an Indian reserve and an armed forces base;

- (g) “public utility” means a public utility as defined in section 1(1)(y), excluding public transportation operated by or on behalf of a municipality;
- (h) “service” means, in respect of a commission, a service that the regulations authorize the commission to provide;
- (i) “transportation service” means a service to transport people or goods by vehicle, including a vehicle that runs on rails.

(2) A reference to a bylaw or resolution in this Act outside this Part does not include a bylaw or resolution passed by a commission.

1995 c24 s86

## **Division 1 Establishment and Operation**

### **Establishing commissions**

**602.02(1)** The Lieutenant Governor in Council, on the recommendation of the Minister, may establish regional services commissions by regulation.

(2) The regulation establishing a commission must

- (a) specify the commission’s name;
- (b) identify the municipal authorities that are the members of the commission;
- (c) specify the services that a commission is authorized to provide.

(3) The regulation establishing a commission may

- (a) regulate the disposal of assets by the commission, and
- (b) deal with any matter respecting the establishment or operation of the commission.

1995 c24 s86

### **Compliance with ALSA regional plans**

**602.021** In carrying out its functions and in exercising its jurisdiction under this Act and other enactments, a commission must act in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s83

### **Corporation**

**602.03** A commission is a corporation.

1995 c24 s86



**Board of directors**

**602.04(1)** A commission is governed by a board of directors.

(2) When a commission is established, the Minister must

- (a) appoint the first board of directors of the commission and fix their term of office, and
- (b) designate one of the directors as the chair.

(3) After the term of the directors appointed under subsection (2) expires,

- (a) the directors are to be appointed and the commission's chair designated in accordance with the commission's bylaws,
- (b) only the council of a municipality may appoint a director who represents a municipality, and
- (c) a director who represents a municipality must be a councillor of the municipality.

(4) A commission's bylaws may provide for the appointment of directors who are directors at large and who do not represent a member of the commission.

(5) If a council or other person who is entitled to appoint a director refuses to make the appointment or does not make the appointment within a reasonable time, the Minister may make the appointment on behalf of the council or other person.

(6) A commission must provide the Minister with the name of each director and alternate director, if any, and its chair.

1995 c24 s86

**Directors representing Province**

**602.05(1)** If, in the Minister's opinion, a service that a commission is authorized to provide is a service that is provided by the Government of Alberta or that may affect a service provided by the Government of Alberta, the Minister may, despite the commission's bylaws, appoint up to 2 directors of the commission.

(2) A director appointed under this section has the powers, duties and functions of a director appointed in accordance with the commission's bylaws.

1995 c24 s86

**Delegation**

**602.06(1)** Subject to subsection (2), a board may delegate any of its or the commission's powers, duties or functions under this or any other enactment.

**(2)** A board may not delegate

- (a) the power or duty to pass bylaws;
- (b) the power to expropriate;
- (c) the power to authorize a borrowing;
- (d) the power to adopt budgets;
- (e) the power to approve financial statements.

1995 c24 s86

**Bylaws**

**602.07(1)** The board of a commission must pass bylaws

- (a) respecting the appointment of its directors and the designation of its chair;
- (b) governing the fees to be charged by the commission for services provided to its customers or to any class of its customers.

**(2)** A bylaw passed under subsection (1)(a) does not come into force until it has been approved by the Minister.

**(3)** The board of a commission may pass bylaws

- (a) respecting the provision of the commission's services;
- (b) governing the administration of the commission.

**(4)** The bylaws of a commission are subject to the regulations.

**(5)** The *Regulations Act* does not apply to the bylaws of a commission.

1995 c24 s86

**Meetings**

**602.08(1)** Boards and board committees must conduct their meetings in public unless subsection (2) applies.

**(2)** Boards and board committees may close all or part of their meetings to the public if a matter to be discussed is within one of the exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*.

(3) When a meeting is closed to the public, no resolution or bylaw may be passed at the meeting, except a resolution to revert to a meeting held in public.

1995 c24 s86

**Control of profit corporations**

**602.09** Section 73 does not apply to a commission.

1995 c24 s86

**Division 2  
Powers****Natural person powers**

**602.1** A commission has natural person powers, except to the extent that they are limited by this or any other enactment.

1995 c24 s86

**Service area**

**602.11** A commission may provide its services

- (a) within the boundaries of its members, and
- (b) outside the boundaries of its members with the approval of the Minister and
  - (i) the municipal authority within whose boundaries the services are to be provided, and
  - (ii) in the case of services to be provided in a part of a province or territory adjoining Alberta, the authority from that province or territory whose jurisdiction includes the provision of the services in that part of the province or territory.

1995 c24 s86;1999 c11 s39

**Traffic Safety Act**

**602.12** A commission that is authorized to provide transportation services is subject to the *Traffic Safety Act*.

RSA 2000 cM-26 s602.12;RSA 2000 cT-6 s205

**Acquisition of land in adjoining province or territory**

**602.125(1)** A commission may acquire an estate or interest in land in a province or territory adjoining Alberta only if the local government within whose boundaries the land is located consents in writing to the acquisition.

(2) This section does not apply when a commission acquires an option on land in a province or territory adjoining Alberta, but it does apply when the commission exercises the option.

1999 c11 s40

**Expropriation**

**602.13(1)** A commission may acquire by expropriation under the *Expropriation Act* an interest or estate in land for the purpose of providing a public utility or a transportation service.

**(2)** A commission may acquire by expropriation an estate or interest under subsection (1) in land that is outside the boundaries of its members only if the municipal authority in whose boundaries the land is located consents in writing to the acquisition.

1995 c24 s86

**Public utility disputes**

**602.14** If there is a dispute between a commission and another commission or a commission and any municipal authority with respect to

- (a) rates, tolls or charges for a service that is a public utility,
- (b) compensation for the acquisition by the commission of facilities used to provide a service that is a public utility, or
- (c) the commission's use of any road, square, bridge, subway or watercourse to provide a service that is a public utility,

any party involved in the dispute may submit it to the Alberta Utilities Commission and the Alberta Utilities Commission may issue an order on any terms and conditions that the Alberta Utilities Commission considers appropriate.

RSA 2000 cM-26 s602.14; 2007 cA-37.2 s82(17)

**Other disputes**

**602.15(1)** If

- (a) there is a dispute between a commission and another commission or a commission and any municipal authority and the matter in dispute is not under the jurisdiction of the Alberta Utilities Commission or the Alberta Transportation Safety Board or any other board or tribunal created by an enactment, or
- (b) there is a dispute between a commission and a municipal authority, other than an improvement district or special area, in respect of an expropriation that requires the municipal authority's consent under section 602.13(2),

any party involved in the dispute may submit it to the Municipal Government Board.

**(2)** If a dispute is submitted to the Municipal Government Board, each party involved in the dispute must submit a written statement

to the Board and to the other parties involved in the dispute that sets out

- (a) a summary of the facts and its position in the dispute, and
- (b) an address to which any notice or decision of the Board is to be sent.

(3) The Municipal Government Board must hold a hearing after the written statements have been submitted or after a time period established by the Board for submission of the statements has expired, whichever occurs first.

RSA 2000 cM-26 s602.15;RSA 2000 cT-6 s205; 2007 cA-37.2 s82(17)

#### **Order**

**602.16(1)** On concluding a hearing, the Municipal Government Board may make any order it considers appropriate.

(2) The order may

- (a) include terms and conditions, and
- (b) be effective on a future date or for a limited time.

(3) The Board must send its order, and its reasons if requested, to the parties involved in the dispute.

(4) An order of the Municipal Government Board under this section is binding on the parties involved in the dispute.

1995 c24 s86

### **Division 3 Financial Matters**

#### **Payments to board**

**602.17(1)** The Lieutenant Governor in Council may pay to the board of a commission an amount that will enable the board to meet the authorized operating and capital expenditures that the Lieutenant Governor in Council considers to be required for development and operation of the services and facilities of the commission.

(2) The sums under subsection (1) may be paid

- (a) by grant,
- (b) by advance or loan, or
- (c) by the purchase of securities under a borrowing made by the commission.

(3) Any sum advanced or loaned under this section is a debt due by the commission to the Crown in right of Alberta and may be collected by civil action for debt in a court of competent jurisdiction.

(4) The Lieutenant Governor in Council may specify the terms of repayment or retirement of advances or loans made under this section.

1995 c24 s86

**Financial year**

**602.18** The financial year of a commission is the calendar year.

1995 c24 s86

**Operating budget**

**602.19** A commission must adopt an operating budget for each calendar year.

1995 c24 s86

**Contents of operating budget**

**602.2(1)** An operating budget must include the estimated amount of each of the following expenditures and transfers:

- (a) the amount needed to enable the commission to provide its services;
- (b) the amount needed to pay the debt obligations in respect of borrowings made to acquire, construct, remove or improve capital property;
- (c) if necessary, the amount needed to provide for a depreciation or depletion allowance, or both, for any public utility it is authorized to provide;
- (d) the amount to be transferred to reserves;
- (e) the amount to be transferred to the capital budget;
- (f) the amount needed to cover any deficiency as required under section 602.21.

(2) An operating budget must include the estimated amount of each of the following sources of revenue and transfers:

- (a) fees for services provided;
- (b) grants;
- (c) transfers from the commission's accumulated surplus funds or reserves;
- (d) any other source of revenue.

(3) The estimated revenue and transfers under subsection (2) must be at least sufficient to pay the estimated expenditures and transfers under subsection (1).

(4) The Minister may make regulations respecting budgets and that define terms used in this section that are not defined in section 602.01.

1995 c24 s86

**Deficiency**

**602.21(1)** If the total revenues and transfers of a commission over a 3-year period are less than the total expenditures and transfers of the commission for the same period, the operating budget for the commission for the year following the 3-year period must include an expenditure to cover the deficiency.

(2) If a commission has a deficiency referred to in subsection (1), the commission may, with the Minister's approval, spread the expenditures to cover the deficiency over more than one calendar year.

(3) If the Minister considers it to be necessary, the Minister may establish the budget for a commission that has a deficiency referred to in subsection (1) for a calendar year, and the budget

- (a) is for all purposes the commission's budget for that calendar year, and
- (b) may not be amended or replaced by the commission's board.

1995 c24 s86

**Capital budget**

**602.22** A commission must adopt a capital budget for each calendar year.

1995 c24 s86

**Contents of capital budget**

**602.23** A capital budget must include the following:

- (a) an estimate of the amount needed to acquire, construct, remove or improve capital property;
- (b) the anticipated sources and estimated amounts of money to pay the costs referred to in clause (a);
- (c) an estimate of the amount to be transferred from the operating budget.

1995 c24 s86

**Expenditure of money**

**602.24(1)** A commission may make an expenditure only if it is

- (a) included in an operating budget or capital budget or otherwise authorized by its board,
- (b) for an emergency, or
- (c) legally required to be paid.

**(2)** Each board must establish procedures to authorize and verify expenditures that are not included in a budget.

**(3)** If the Minister establishes a budget for a commission under section 602.21, the commission may not make an expenditure that is not included in the budget unless the expenditure is

- (a) authorized by the Minister,
- (b) for an emergency, or
- (c) legally required to be paid.

1995 c24 s86

**Civil liability of directors**

**602.25(1)** A director who

- (a) makes an expenditure that is not authorized under section 602.24,
- (b) votes to spend money that has been obtained under a borrowing on something that is not within the purpose for which the money was borrowed, or
- (c) votes to spend money that has been obtained under a grant on something that is not within the purpose for which the grant was given

is liable to the commission for the expenditure or amount spent.

**(2)** A director is not liable under subsection (1)(b) if spending the money is allowed under section 602.27(2).

**(3)** If more than one director is liable to the commission under this section in respect of a particular expenditure or amount spent, the directors are jointly and severally liable to the commission for the expenditure or amount spent.

**(4)** The liability may be enforced by action by

- (a) the commission,



- (b) a member of the commission,
- (c) a taxpayer of a member of the commission, or
- (d) a person who holds a security under a borrowing made by the commission.

1995 c24 s86

**Authorized investments**

**602.26** A commission may invest its money only in the investments referred to in section 250(2)(a) to (d).

1995 c24 s86

**Use of borrowed money**

**602.27(1)** Money obtained by a commission under a borrowing must be used for the purpose for which it is borrowed.

**(2)** Money obtained by a commission under a borrowing for the purpose of financing a capital property may be used for an operating purpose if the amount spent is available when it is needed for the capital property.

1995 c24 s86

**Borrowing**

**602.28** No commission may make a borrowing if the borrowing will cause the commission to exceed its debt limit, unless the borrowing is approved by the Minister.

1995 c24 s86

**Debt limit regulations**

**602.29(1)** The Minister may make regulations

- (a) respecting how a debt limit for a commission is determined;
- (b) defining debt for the purposes of determining if a commission has exceeded its debt limit, and the definition may include anything related to a commission's finances.

**(2)** The regulations may establish different methods of determining debt limits and different definitions of debt for different commissions.

1995 c24 s86

**Civil liability of directors**

**602.3(1)** When a commission makes a borrowing that causes the commission to exceed its debt limit, a director who voted to authorize the borrowing is liable to the commission for the amount borrowed, unless the borrowing has been approved by the Minister.

(2) If subsection (1) applies to more than one director, the directors are jointly and severally liable to the commission for the amount borrowed.

(3) The liability may be enforced by action by

- (a) the commission,
- (b) a member of the commission,
- (c) a taxpayer of a member of the commission, or
- (d) a person who holds a security under a borrowing made by the commission.

1995 c24 s86

#### **Loans and guarantees**

**602.31** A commission may not lend money or guarantee the repayment of a loan.

1995 c24 s86

#### **Financial information return**

**602.32(1)** Each commission must prepare a financial information return respecting the financial affairs of the commission for the immediately preceding calendar year.

(2) The Minister may establish requirements respecting the financial information return, including requirements respecting the accounting principles and standards to be used in preparing the return.

1995 c24 s86

#### **Audited financial statements**

**602.33** Each commission must prepare audited annual financial statements for the immediately preceding calendar year.

1995 c24 s86

#### **Distribution of returns and statements**

**602.34** Each commission must submit its financial information return and audited annual financial statements to the Minister and each member of the commission by May 1 of the year following the year for which the return and statements have been prepared.

1995 c24 s86

## **Division 4 Minister's Powers**

#### **Inspection**

**602.35(1)** The Minister may require any matter connected with the management, administration or operation of any commission to be inspected

- (a) on the Minister's initiative, or
  - (b) on the request of a member of the commission.
- (2) The Minister may appoint one or more persons as inspectors for the purposes of carrying out inspections under this section.
- (3) An inspector
- (a) may require the attendance of any director or officer of the commission or of any other person whose presence the inspector considers necessary during the course of the inspection, and
  - (b) has the same powers, privileges and immunities as a commissioner under the *Public Inquiries Act*.
- (4) When required to do so by an inspector, the commission must produce for examination and inspection all books and records of the commission.
- (5) After the completion of the inspection, the inspector must make a report to the Minister and, if the inspection was made at the request of a member of the commission, to the member and the commission.

1995 c24 s86

**Directions and dismissal**

- 602.36(1)** If because of an inspection under section 602.35 the Minister considers that a commission is managed in an irregular, improper or improvident manner, the Minister may by order direct the board of the commission to take any action that the Minister considers proper in the circumstances.
- (2) If an order of the Minister under this section is not carried out to the satisfaction of the Minister, the Minister may dismiss the board or any director.
- (3) On the dismissal of the board or of any director, the Minister may direct that a new board or director be appointed or may appoint a new board or director.
- (4) The Minister may appoint an official administrator
- (a) on the dismissal of a board, or
  - (b) on the dismissal of one or more directors if the remaining directors do not constitute a quorum.
- (5) An official administrator appointed under subsection (4) has all the powers and duties of the board.

1995 c24 s86

**Official administrator as supervisor**

**602.37(1)** The Minister may at any time appoint an official administrator to supervise a commission and its board.

**(2)** So long as the appointment of an official administrator under this section continues,

- (a) no bylaw or resolution that authorizes the commission to incur a liability or to dispose of its money or property has any effect until the bylaw or resolution has been approved in writing by the official administrator, and
- (b) the official administrator may at any time within 30 days after the passing of any bylaw or resolution disallow it, and the bylaw or resolution so disallowed becomes and is deemed to have always been void.

1995 c24 s86

**Remuneration for official administrator**

**602.38** When an official administrator is appointed for a commission by the Minister under this Part, the remuneration and expenses of the official administrator as set by the Minister must, if required by the Minister, be paid by the commission.

1995 c24 s86

**Providing Minister with copies and information**

**602.381(1)** The Minister may direct a commission to provide

- (a) a copy of any document in its possession, or
- (b) any information or statistics respecting the commission,

to the Minister within the time specified by the Minister.

**(2)** A commission must comply with a direction of the Minister under this section and provide the copy, information or statistics to the Minister without charge.

**(3)** This section does not apply to documents prepared or information acquired by a commission that is subject to any type of legal privilege, including solicitor-client privilege.

1998 c24 s56

**Application of provisions outside this Part**

**602.39** The Minister may by regulation make provisions of this Act, other than provisions in this Part, applicable with or without modification to one or more commissions.

1995 c24 s86

**Disestablishing a commission**

**602.4** The Lieutenant Governor in Council, on the recommendation of the Minister, may make regulations disestablishing a commission and respecting its winding-up.

1995 c24 s86

**Division 5  
Transitional**

**602.41 to 602.49** Repealed by Revision.

**Transitional regulations**

**602.5** The Minister may make regulations

- (a) respecting the conversion to this Part of anything from the *Regional Municipal Services Act*, SA 1981 cR-9.1;
- (b) to deal with any difficulty or impossibility resulting from this Part or the transition to this Part from the *Regional Municipal Services Act*, SA 1981 cR-9.1.

1995 c24 s86

**Part 16  
Miscellaneous****Lieutenant Governor in Council regulations**

**603(1)** The Lieutenant Governor in Council may make regulations

- (a) for any matter that the Minister considers is not provided for or is insufficiently provided for in this Act;
- (b) restricting the power or duty of a council to pass bylaws.

**(2)** A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the matter to this Act;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) two years after the regulation comes into force.

**(3)** The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

1994 cM-26.1 s603

**Validation of regulations**

**603.1(1)** Despite any decision of a court to the contrary made before or after the coming into force of this section,

- (a) a regulation made under section 603(1) before the coming into force of this section, including a new regulation described in clause (c), is validated and declared for all purposes to have been validly made as of the date on which the regulation was made,
- (b) everything done under a regulation referred to in clause (a) is validated and declared for all purposes to have been validly done, and
- (c) where a regulation made under section 603(1) before the coming into force of this section (in this clause called the “former regulation”) is repealed and another regulation made under section 603(1) (in this clause called the “new regulation”) was substituted for it, the new regulation operates as a continuation of the former regulation except to the extent that the provisions of the new regulation are not in substance the same as those of the former regulation.

**(2)** For greater certainty and without limiting the generality of subsection (1)(b) and (c),

- (a) the Minister’s approval of the Capital Region Growth Plan under section 13(1) of the *Capital Region Board Regulation* (AR 49/2008)
  - (i) is validated and declared for all purposes to have been validly approved, and
  - (ii) continues to be valid as if it had been approved under section 13(1) of the *Capital Region Board Regulation* (AR 38/2012),
- (b) the Minister’s establishment of the Transitional Regional Evaluation Framework under section 20 of the *Capital Region Board Regulation* (AR 49/2008) is validated and declared for all purposes to have been validly established, and
- (c) the Minister’s establishment of the Regional Evaluation Framework under section 21 of the *Capital Region Board Regulation* (AR 17/2010)
  - (i) is validated and declared for all purposes to have been validly established, and

- (ii) continues to be valid as if it had been established under section 21 of the *Capital Region Board Regulation* (AR 38/2012).

(3) Despite section 603(2), a regulation referred to in subsection (1) of this section that is in force on the coming into force of this section is repealed on the earliest of

- (a) the coming into force of an amendment that adds the matter to this Act;
- (b) the coming into force of a regulation that repeals the regulation;
- (c) June 30, 2017.

(4) Subsection (3) does not apply to the following regulations:

- (a) *Proceedings Before the Board Clarification Regulation* (AR 176/2011);
- (b) *Equalized Assessment Variance Regulation, 2012* (AR 195/2011);
- (c) *Capital Region Board Regulation* (AR 38/2012);
- (d) *Municipal Emergency Exemption Regulation* (AR 142/2013).

2013 c17 s4

#### **Ministerial regulations**

**604** The Minister may make regulations

- (a) defining population for the purposes of this Act;
- (b) respecting the determination of the population of a municipality or other geographic area and establishing requirements for a municipality to conduct a census and provide information concerning population to the Minister;
- (c) respecting the administration, operation and management of specialized municipalities;
- (d) prescribing forms for the purposes of this Act;
- (e) respecting the content or form of anything required to be done by a municipality under this Act.

1994 cM-26.1 s604

**Altering dates and time periods**

**605(1)** When this Act, the regulations or a bylaw specifies a certain number of days or a day on or by which

- (a) something is to be done, or
- (b) certain proceedings are to be taken,

and the day that the thing is to be done or proceedings are to be taken is a holiday, the thing or proceedings must be done or taken on or by the next day that is not a holiday.

**(2)** When this Act or the regulations specify a certain number of days or a day on or by which

- (a) something is to be done, or
- (b) proceedings are to be taken,

the Minister may by order specify another number of days or another day for doing it or taking proceedings.

**(3)** An order under subsection (2) may be made at any time before or after the day that the thing is to be done or proceedings are to be taken and the time for doing any other thing that is determined in relation to that day is subject to a like delay.

**(4)** Anything done or proceedings taken within the number of days or by the day specified in an order under subsection (2) is as valid as if it had been done or taken within the number of days or by the day specified in this Act or the regulations.

1994 cM-26.1 s605

**Requirements for advertising**

**606(1)** The requirements of this section apply when this or another enactment requires a bylaw, resolution, meeting, public hearing or something else to be advertised by a municipality, unless this or another enactment specifies otherwise.

**(2)** Notice of the bylaw, resolution, meeting, public hearing or other thing must be

- (a) published at least once a week for 2 consecutive weeks in at least one newspaper or other publication circulating in the area to which the proposed bylaw, resolution or other thing relates, or in which the meeting or hearing is to be held, or
- (b) mailed or delivered to every residence in the area to which the proposed bylaw, resolution or other thing relates, or in which the meeting or hearing is to be held.



- (3) A notice of a proposed bylaw must be advertised under subsection (2) before second reading.
- (4) A notice of a proposed resolution must be advertised under subsection (2) before it is voted on by council.
- (5) A notice of a meeting, public hearing or other thing must be advertised under subsection (2) at least 5 days before the meeting, public hearing or thing occurs.
- (6) A notice must contain
- (a) a statement of the general purpose of the proposed bylaw, resolution, meeting, public hearing or other thing,
  - (b) the address where a copy of the proposed bylaw, resolution or other thing, and any document relating to it or to the meeting or public hearing may be inspected,
  - (c) in the case of a bylaw or resolution, an outline of the procedure to be followed by anyone wishing to file a petition in respect of it, and
  - (d) in the case of a meeting or public hearing, the date, time and place where it will be held.
- (7) A certificate of a designated officer certifying that something has been advertised in accordance with this section is proof, in the absence of evidence to the contrary, of the matters set out in the certificate.
- (8) The certificate is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

1994 cM-26.1 s606

**Service of documents**

**607** The service of a document on a municipality is sufficient if

- (a) the document is served personally on the chief administrative officer or a person working for the municipality in the office of the chief administrative officer, or
- (b) the document is sent by certified or registered mail to the chief administrative officer at the municipality's office and the document is delivered to the municipality's office.

1994 cM-26.1 s607

**Sending documents**

**608** Any document required by this or any other enactment or bylaw to be sent by a person may be sent by any electronic means

so long as it is possible to make a copy of the document from the electronic signals used by the electronic means.

1994 cM-26.1 s608;1996 c30 s52

#### **Adverse possession of land**

**609** No person can acquire an estate or interest in land owned by a municipality by adverse or unauthorized possession, occupation, enjoyment or use of the land.

1994 cM-26.1 s609

#### **Lost or unclaimed property**

**610(1)** Lost or unclaimed property coming into the possession of a municipality must be retained for at least 30 days from the date it comes into possession of the municipality unless it is unsafe, unsanitary or perishable, in which case it may be disposed of at any time.

**(2)** If property is not claimed within 30 days, it becomes the property of the municipality and the municipality may dispose of the property by public auction or as the council directs.

**(3)** The purchaser of lost or unclaimed property is the absolute owner of it.

**(4)** A prior owner of lost or unclaimed property is entitled to the proceeds of the sale less all expenses incurred by the municipality if the prior owner makes a claim to the municipality within 90 days after the date of the sale.

**(5)** If the sale proceeds are not claimed within 90 days from the date of sale, the rights of any prior owner to the sale proceeds are extinguished and the sale proceeds belong to the municipality.

1994 cM-26.1 s610

#### **Unclaimed utility deposits**

**611(1)** If money is deposited with a municipality as a deposit for the payment of an account for a service or product and remains unclaimed for one year after the depositor's account is discontinued, the amount of the deposit may be transferred to the general revenue of the municipality.

**(2)** The municipality is liable to repay the amount of the deposit to the person lawfully entitled to it for a period of 7 years following the discontinuance of the account.

1994 cM-26.1 s611

#### **Certified copies**

**612(1)** A copy of a bylaw, resolution or record of a municipality certified by a designated officer as a true copy of the original is proof, in the absence of evidence to the contrary, of the bylaw, resolution or record.

(2) The certificate of the designated officer is admissible in evidence without proof of the appointment or signature of the person who signed the certificate.

(3) When a copy of a bylaw or resolution certified in accordance with this section is filed with the clerk of a court, the court must take judicial notice of it when an action is brought in the court.

1994 cM-26.1 s612

#### **Calgary Charter**

**613** The provisions of the Calgary Charter relating to the land, buildings, plants and equipment of the water supply and distribution system commonly known as the Glenmore Dam, and the provisions of the Calgary Charter relating in particular to the assessment and taxation of it by the Municipal District of Springbank, continue to apply.

1994 cM-26.1 s613

**614** Repealed 1994 cR-9.07 s25(24).

#### **Crowsnest Pass**

**615(1)** In this section, “Crowsnest Pass” means the Municipality of Crowsnest Pass.

(2) The Minister may make regulations that apply to Crowsnest Pass respecting the following matters:

- (a) the eligibility of Crowsnest Pass to receive grants under this or another enactment and the calculation of those grants;
- (b) the authority to pass bylaws respecting fires, agreements for the prevention and control of fires and the application of the *Forest and Prairie Protection Act*;
- (c) a scheme to adjust property boundaries so that property boundaries coincide with lines of occupation, including
  - (i) the application of Part 17,
  - (ii) road closures,
  - (iii) the duties of the Registrar of Land Titles,
  - (iv) the rights of property owners affected by the scheme, and
  - (v) any other matter the Minister considers necessary to implement the scheme.

1994 cM-26.1 s615;1995 c24 s87

**Municipal emergency exemption**

**615.1(1)** In this section,

- (a) “disaster” means a disaster as defined in section 1(e) of the *Emergency Management Act*;
- (b) “emergency” means an emergency as defined in section 1(f) of the *Emergency Management Act*.

**(2)** Where it appears to the Minister that a disaster or an emergency exists in a municipal authority, the Minister may by order, with respect to that municipal authority or an adjacent municipal authority,

- (a) modify one or more provisions of this Act as they apply to the municipal authority,
- (b) exempt the municipal authority from one or more provisions of this Act or bylaws made pursuant to this Act, or
- (c) provide the municipal authority with specified authority in addition to that set out in this Act.

**(3)** The Minister may, in an order made under subsection (2),

- (a) impose terms, conditions and timelines on the modification or exemption of a provision of this Act or a bylaw or the exercise of additional authority, and
- (b) specify a date on which the order or any provision of it expires.

**(4)** The *Regulations Act* does not apply to an order made under subsection (2).

2013 c21 s2

## **Part 17**

### **Planning and Development**

**Definitions**

**616** In this Part,

- (a) “agricultural operation” means an agricultural operation as defined in the *Agricultural Operation Practices Act*;
- (a.1) “building” includes anything constructed or placed on, in, over or under land, but does not include a highway or road or a bridge that forms part of a highway or road;

- (a.2) “community services reserve” means the land designated as community services reserve under Division 9;
- (b) “development” means
- (i) an excavation or stockpile and the creation of either of them,
  - (ii) a building or an addition to or replacement or repair of a building and the construction or placing of any of them on, in, over or under land,
  - (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
  - (iv) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building;
- (c) “development authority” means a development authority established pursuant to Division 3;
- (d) “development permit” means a document that is issued under a land use bylaw and authorizes a development;
- (e) “environmental reserve” means the land designated as environmental reserve by a subdivision authority or a municipality under Division 8;
- (f) “environmental reserve easement” means an easement created under Division 8;
- (g) “former Act” means the *Planning Act*, RSA 1980 cP-9, *The Planning Act, 1977*, SA 1977 c89, *The Planning Act*, RSA 1970 c276 or *The Planning Act*, SA 1963 c43;
- (h) “highway” means a provincial highway under the *Highways Development and Protection Act*;
- (i) “instrument” means a plan of subdivision and an instrument as defined in the *Land Titles Act*;
- (j) “intermunicipal service agency” means an intermunicipal service agency established under Division 3;
- (k) “land use bylaw” means a bylaw made under Division 5 and a bylaw made under section 27 of the *Historical Resources Act*;

- (l) “land use policies” means policies established by the Lieutenant Governor in Council under Division 2;
- (m) “lot” means
  - (i) a quarter section,
  - (ii) a river lot shown on an official plan, as defined in the *Surveys Act*, that is filed or lodged in a land titles office,
  - (iii) a settlement lot shown on an official plan, as defined in the *Surveys Act*, that is filed or lodged in a land titles office,
  - (iv) a part of a parcel of land described in a certificate of title if the boundaries of the part are described in the certificate of title other than by reference to a legal subdivision, or
  - (v) a part of a parcel of land described in a certificate of title if the boundaries of the part are described in a certificate of title by reference to a plan of subdivision;
- (m.1) “mediation” means a process involving a neutral person as a mediator who assists the parties to a matter that may be appealed under this Part and any other person brought in with the agreement of the parties to reach their own mutually acceptable settlement of the matter by structuring negotiations, facilitating communication and identifying the issues and interests of the parties;
- (n) “municipal planning commission” means a municipal planning commission established under Division 3;
- (o) “municipal reserve” means the land designated as municipal reserve under Division 8;
- (p) “municipal and school reserve” means the land designated as municipal and school reserve under Division 8;
- (q) “non-conforming building” means a building
  - (i) that is lawfully constructed or lawfully under construction at the date a land use bylaw affecting the building or the land on which the building is situated becomes effective, and
  - (ii) that on the date the land use bylaw becomes effective does not, or when constructed will not, comply with the land use bylaw;

- (r) “non-conforming use” means a lawful specific use
  - (i) being made of land or a building or intended to be made of a building lawfully under construction at the date a land use bylaw affecting the land or building becomes effective, and
  - (ii) that on the date the land use bylaw becomes effective does not, or in the case of a building under construction will not, comply with the land use bylaw;
- (r.1) “non-profit”, in respect of a day care, senior citizens or special needs facility, means that the facility is owned or operated by a corporation or other entity established under a law of Canada or Alberta for a purpose other than to make a profit;
- (s) “parcel of land” means the aggregate of the one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office;
- (t) “*Planning Act*” means the *Planning Act*, RSA 1980 cP-9;
- (u) “plan of subdivision” means a plan of survey prepared in accordance with the *Land Titles Act* for the purpose of effecting a subdivision;
- (v) “public utility” means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:
  - (i) water or steam;
  - (ii) sewage disposal;
  - (iii) public transportation operated by or on behalf of the municipality;
  - (iv) irrigation;
  - (v) drainage;
  - (vi) fuel;
  - (vii) electric power;
  - (viii) heat;
  - (ix) waste management;

- (x) telecommunications;  
and includes the thing that is provided for public consumption, benefit, convenience or use;
- (w) “public utility lot” means land required to be given under Division 8 for public utilities;
- (x) “redevelopment area” means an area of land that is the subject of an area redevelopment plan;
- (y) “Registrar” means Registrar as defined in the *Land Titles Act*;
- (z) “reserve land” means environmental reserve, municipal reserve, community services reserve, school reserve or municipal and school reserve;
- (aa) “road” means road as defined in section 1(1), but does not include highway as defined in this Part;
- (bb) “school board” means the board of trustees of a school district, school division or regional division;
- (cc) “school reserve” means the land designated as school reserve under Division 8;
- (dd) “statutory plan” means an intermunicipal development plan, a municipal development plan, an area structure plan and an area redevelopment plan adopted by a municipality under Division 4;
- (ee) “subdivision” means the division of a parcel of land by an instrument and “subdivide” has a corresponding meaning;
- (ff) “subdivision authority” means a subdivision authority established under Division 3;
- (gg) “subdivision and development appeal board” means a subdivision and development appeal board established under Division 3;
- (hh) “subdivision and development regulations” mean regulations made by the Lieutenant Governor in Council under section 694(1).

RSA 2000 cM-26 s616;RSA 2000 c21(Supp) s3;  
2004 cH-8.5 s69;2008 c37 s4

#### **Purpose of this Part**

**617** The purpose of this Part and the regulations and bylaws under this Part is to provide means whereby plans and related matters may be prepared and adopted



- (a) to achieve the orderly, economical and beneficial development, use of land and patterns of human settlement, and
- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,

without infringing on the rights of individuals for any public interest except to the extent that is necessary for the overall greater public interest.

1995 c24 s95

#### **Non-application of this Part**

**618(1)** This Part and the regulations and bylaws under this Part do not apply when a development or a subdivision is effected only for the purpose of

- (a) a highway or road,
- (b) a well or battery within the meaning of the *Oil and Gas Conservation Act*, or
- (c) a pipeline or an installation or structure incidental to the operation of a pipeline.

**(2)** This Part and the regulations and bylaws under this Part do not apply to

- (a) the geographic area of a Metis settlement, or
- (b) a designated area of Crown land in a municipal district or specialized municipality.

**(3)** The Minister responsible for the *Public Lands Act* may make regulations designating one or more areas of Crown land under that Minister's administration for the purposes of subsection (2)(b).

**(4)** The Lieutenant Governor in Council may, by regulation, exempt an action, person or thing from the application of all of or any provision of this Part or of the regulations or bylaws under this Part.

**(5)** The Lieutenant Governor in Council may include terms and conditions in a regulation under subsection (4).

1995 c24 s95;1996 c30 s53

#### **Exemption**

**618.1** This Part and the regulations and bylaws under this Part respecting development permits do not apply to a confined feeding operation or manure storage facility within the meaning of the

*Agricultural Operation Practices Act* if the confined feeding operation or manure storage facility is the subject of an approval, registration or authorization under Part 2 of the *Agricultural Operation Practices Act*.

2001 c16 s8

## **Division 1 Other Authorizations, Compensation**

### **NRCB, ERCB, AEUB or AUC authorizations**

**619(1)** A licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC prevails, in accordance with this section, over any statutory plan, land use bylaw, subdivision decision or development decision by a subdivision authority, development authority, subdivision and development appeal board, or the Municipal Government Board or any other authorization under this Part.

**(2)** When an application is received by a municipality for a statutory plan amendment, land use bylaw amendment, subdivision approval, development permit or other authorization under this Part and the application is consistent with a licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC, the municipality must approve the application to the extent that it complies with the licence, permit, approval or other authorization granted under subsection (1).

**(3)** An approval of a statutory plan amendment or land use bylaw amendment under subsection (2)

- (a) must be granted within 90 days after the application or a longer time agreed on by the applicant and the municipality, and
- (b) is not subject to the requirements of section 692 unless, in the opinion of the municipality, the statutory plan amendment or land use bylaw amendment relates to matters not included in the licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC.

**(4)** If a municipality that is considering an application under subsection (2) holds a hearing, the hearing may not address matters already decided by the NRCB, ERCB, AER, AEUB or AUC except as necessary to determine whether an amendment to a statutory plan or land use bylaw is required.

**(5)** If a municipality does not approve an application under subsection (2) to amend a statutory plan or land use bylaw or the municipality does not comply with subsection (3), the applicant

may appeal to the Municipal Government Board by filing with the Board

- (a) a notice of appeal, and
- (b) a statutory declaration stating why mediation was unsuccessful or why the applicant believes that the municipality was unwilling to attempt to use mediation.

**(6)** The Municipal Government Board, on receiving a notice of appeal and statutory declaration under subsection (5),

- (a) must commence a hearing within 60 days after receiving the notice of appeal and statutory declaration and give a written decision within 30 days after concluding the hearing, and
- (b) is not required to notify or hear from any person other than the applicant and the municipality against whom the appeal is launched.

**(7)** The Municipal Government Board, in hearing an appeal under subsection (6), may only hear matters relating to whether the proposed statutory plan or land use bylaw amendment is consistent with the licence, permit, approval or other authorization granted under subsection (1).

**(8)** In an appeal under this section, the Municipal Government Board may

- (a) order the municipality to amend the statutory plan or land use bylaw in order to comply with a licence, permit, approval or other authorization granted by the NRCB, ERCB, AER, AEUB or AUC, or
- (b) dismiss the appeal.

**(9)** Section 692 does not apply when the statutory plan or land use bylaw is amended pursuant to a decision of the Municipal Government Board under subsection (8)(a).

**(10)** A decision under subsection (8) is final but may be appealed by the applicant or the municipality in accordance with section 688.

**(11)** In this section, “NRCB, ERCB, AER, AEUB or AUC” means the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator, Alberta Energy and Utilities Board or Alberta Utilities Commission.

(12) Despite any other provision of this section, every decision referred to or made and every instrument issued under this section must comply with any applicable ALSA regional plan.

RSA 2000 cM-26 s619;2007 cA-37.2 s82(14);  
2009 cA-26.8 s83;2012 cR-17.3 s95

#### Conditions prevail

**620** A condition of a licence, permit, approval or other authorization granted pursuant to an enactment by the Lieutenant Governor in Council, a Minister, a Provincial agency or Crown-controlled organization as defined in the *Financial Administration Act* or a delegated person as defined in Schedule 10 to the *Government Organization Act* prevails over any condition of a development permit that conflicts with it.

1995 c24 s95

#### Compensation

**621(1)** Except as provided in this Part and in section 28 of the *Historical Resources Act*, nothing in this Part or the regulations or bylaws under this Part gives a person a right to compensation.

(2) Subsection (1) applies only to this Part and does not create, extinguish or affect rights created, extinguished or affected by the rest of this Act.

1995 c24 s95

## Division 2 Land Use Policies

#### Land use policies

**622(1)** The Lieutenant Governor in Council may by order, on the recommendation of the Minister, establish land use policies.

(2) The *Regulations Act* does not apply to an order under subsection (1).

(3) Every statutory plan, land use bylaw and action undertaken pursuant to this Part by a municipality, municipal planning commission, subdivision authority, development authority or subdivision and development appeal board or the Municipal Government Board must be consistent with the land use policies.

(4) Land use policies do not apply in any planning region within the meaning of the *Alberta Land Stewardship Act* in respect of which there is an ALSA regional plan.

RSA 2000 cM-26 s622;2009 cA-26.8 s83

### Division 3 Planning Authorities

#### Subdivision authority

**623(1)** A council must by bylaw provide for a subdivision authority to exercise subdivision powers and duties on behalf of the municipality.

**(2)** A subdivision authority may include one or more of the following:

- (a) any or all members of council;
- (b) a designated officer;
- (c) a municipal planning commission;
- (d) any other person or organization.

1995 c24 s95

#### Development authority

**624(1)** Subject to section 641, a council must by bylaw provide for a development authority to exercise development powers and perform duties on behalf of the municipality.

**(2)** A development authority may include one or more of the following:

- (a) a designated officer;
- (b) a municipal planning commission;
- (c) any other person or organization.

1995 c24 s95

#### Intermunicipal service agency

**625** A council may by bylaw authorize the municipality to enter into an agreement

- (a) with a regional services commission, or
- (b) with one or more municipalities to establish an intermunicipal service agency

to which the municipality may delegate any of its subdivision authority or development authority powers, duties or functions.

1995 c24 s95

#### Municipal planning commission

**626(1)** A council may by bylaw establish a municipal planning commission and may by bylaw authorize the municipality to enter

into an agreement with one or more municipalities to establish an intermunicipal planning commission.

(2) An intermunicipal planning commission is deemed to be a municipal planning commission for the purposes of this Part.

(3) If an intermunicipal planning commission or a municipal planning commission is established, the bylaw or agreement establishing it must

- (a) provide for the applicable matters described in section 145(b),
- (b) prescribe the functions and duties of the commission, including but not limited to subdivision and development powers and duties, and
- (c) in the case of an intermunicipal planning commission, provide for its dissolution.

1995 c24 s95

#### **Appeal board established**

**627(1)** A council must by bylaw

- (a) establish a subdivision and development appeal board, or
- (b) authorize the municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board,

or both.

(2) An intermunicipal subdivision and development appeal board is a subdivision and development appeal board for the purposes of this Part.

(3) Despite section 146,

- (a) in the case of a subdivision and development appeal board formed under subsection (1)(a), councillors may not form the majority of the board or the majority of the board or a committee hearing an appeal, and
- (b) in the case of a subdivision and development appeal board formed under subsection (1)(b), the councillors from a single municipality may not form the majority of the board or of a committee hearing an appeal.

(4) The following persons may not be appointed as members of a subdivision and development appeal board:

- (a) an employee of the municipality;

- (b) a person who carries out subdivision or development powers, duties and functions on behalf of the municipality;
- (c) a member of a municipal planning commission.

1995 c24 s95;1996 c30 s54

**Appeal board established****628(1)** A bylaw or agreement under section 627 must

- (a) provide for the applicable matters described in section 145(b), and
- (b) prescribe the functions and duties of the subdivision and development appeal board.

**(2)** A bylaw or agreement under section 627 may provide

- (a) for the members of the subdivision and development appeal board to meet in committees,
- (b) for 2 or more committees to meet simultaneously,
- (c) that the committees have any or all the powers, duties and responsibilities of the subdivision and development appeal board, and
- (d) that a decision of a committee is a decision of the subdivision and development appeal board.

1995 c24 s95

**Appeal board evidence****629** A subdivision and development appeal board

- (a) may, while carrying out its powers, duties and responsibilities, accept any oral or written evidence that it considers proper, whether admissible in a court of law or not, and is not bound by the laws of evidence applicable to judicial proceedings, and
- (b) must make and keep a record of its proceedings, which may be in the form of a summary of the evidence presented at a hearing.

1995 c24 s95

**Signature evidence****630(1)** An order, decision, approval, notice or other thing made or given by a subdivision authority, development authority or subdivision and development appeal board may be signed on its behalf by a designated officer.

(2) An order, decision, approval, notice or other thing purporting to be signed by a designated officer pursuant to subsection (1) may be admitted in evidence as proof

- (a) of the order, decision, approval, notice or other thing, and
- (b) that the designated officer signing it was authorized to do so,

without proof of the signature or of the designation.

1995 c24 s95

#### **Fees**

**630.1** A council may establish and charge fees for matters under this Part.

1996 c30 s55

#### **Compliance with ALSA regional plans**

**630.2** A subdivision authority, a development authority, an entity to which authority is delegated under section 625, a municipal planning commission and a subdivision and development appeal board must each carry out its functions and exercise its jurisdiction in accordance with any applicable ALSA regional plan.

2009 cA-26.8 s83

## **Division 4 Statutory Plans**

### **Intermunicipal Development Plans**

#### **Intermunicipal development plan**

**631(1)** Two or more councils may, by each passing a bylaw in accordance with this Part or in accordance with sections 12 and 692, adopt an intermunicipal development plan to include those areas of land lying within the boundaries of the municipalities as they consider necessary.

(2) An intermunicipal development plan

- (a) may provide for
  - (i) the future land use within the area,
  - (ii) the manner of and the proposals for future development in the area, and
  - (iii) any other matter relating to the physical, social or economic development of the area that the councils consider necessary,

and



- (b) must include
  - (i) a procedure to be used to resolve or attempt to resolve any conflict between the municipalities that have adopted the plan,
  - (ii) a procedure to be used, by one or more municipalities, to amend or repeal the plan, and
  - (iii) provisions relating to the administration of the plan.

1995 c24 s95

**Order for intermunicipal development plan****631.1(1)** The Minister may make regulations

- (a) requiring 2 or more municipal authorities to establish an intermunicipal development plan in accordance with any requirements contained in the regulations or in an ALSA regional plan;
- (b) respecting the matters to be included in an intermunicipal plan;
- (c) respecting the time within which an intermunicipal plan must be complete.

**(2)** If the municipal authorities to whom an ALSA regional plan applies or to whom a regulation under subsection (1) applies do not comply with the ALSA regional plan or the regulation, the Minister may establish an intermunicipal development plan that is binding on the municipal authorities.

2009 cA-26.8 s83

**Municipal Development Plans****Municipal development plan**

**632(1)** A council of a municipality with a population of 3500 or more must by bylaw adopt a municipal development plan.

**(2)** A council of a municipality with a population of less than 3500 may adopt a municipal development plan.

**(3)** A municipal development plan

- (a) must address
  - (i) the future land use within the municipality,
  - (ii) the manner of and the proposals for future development in the municipality,

- (iii) the co-ordination of land use, future growth patterns and other infrastructure with adjacent municipalities if there is no intermunicipal development plan with respect to those matters in those municipalities,
  - (iv) the provision of the required transportation systems either generally or specifically within the municipality and in relation to adjacent municipalities, and
  - (v) the provision of municipal services and facilities either generally or specifically,
- (b) may address
- (i) proposals for the financing and programming of municipal infrastructure,
  - (ii) the co-ordination of municipal programs relating to the physical, social and economic development of the municipality,
  - (iii) environmental matters within the municipality,
  - (iv) the financial resources of the municipality,
  - (v) the economic development of the municipality, and
  - (vi) any other matter relating to the physical, social or economic development of the municipality,
- (c) may contain statements regarding the municipality's development constraints, including the results of any development studies and impact analysis, and goals, objectives, targets, planning policies and corporate strategies,
- (d) must contain policies compatible with the subdivision and development regulations to provide guidance on the type and location of land uses adjacent to sour gas facilities,
- (e) must contain policies respecting the provision of municipal, school or municipal and school reserves, including but not limited to the need for, amount of and allocation of those reserves and the identification of school requirements in consultation with affected school boards, and
- (f) must contain policies respecting the protection of agricultural operations.

RSA 2000 cM-26 s632;RSA 2000 c21(Supp) s4;  
2008 c37 s11

### Area Structure Plans

#### Area structure plan

**633(1)** For the purpose of providing a framework for subsequent subdivision and development of an area of land, a council may by bylaw adopt an area structure plan.

(2) An area structure plan

(a) must describe

- (i) the sequence of development proposed for the area,
- (ii) the land uses proposed for the area, either generally or with respect to specific parts of the area,
- (iii) the density of population proposed for the area either generally or with respect to specific parts of the area, and
- (iv) the general location of major transportation routes and public utilities,

and

(b) may contain any other matters the council considers necessary.

1995 c24 s95

### Area Redevelopment Plans

#### Area redevelopment plans

**634** A council may

- (a) designate an area of the municipality as a redevelopment area for the purpose of any or all of the following:
  - (i) preserving or improving land and buildings in the area;
  - (ii) rehabilitating buildings in the area;
  - (iii) removing buildings from the area;
  - (iv) constructing or replacing buildings in the area;
  - (v) establishing, improving or relocating roads, public utilities or other services in the area;
  - (vi) facilitating any other development in the area,
- (b) adopt, by bylaw, an area redevelopment plan,

- (c) in accordance with this section and Division 6, provide for the imposition and collection of a levy to be known as a “redevelopment levy”, and
- (d) authorize a designated officer, with or without conditions, to perform any function with respect to the imposition and collection of that redevelopment levy.

1995 c24 s95

**Plan contents****635** An area redevelopment plan

- (a) must describe
    - (i) the objectives of the plan and how they are proposed to be achieved,
    - (ii) the proposed land uses for the redevelopment area,
    - (iii) if a redevelopment levy is to be imposed, the reasons for imposing it, and
    - (iv) any proposals for the acquisition of land for any municipal use, school facilities, parks and recreation facilities or any other purposes the council considers necessary,
- and
- (b) may contain any other proposals that the council considers necessary.

1995 c24 s95

**General Provisions****Statutory plan preparation****636(1)** While preparing a statutory plan a municipality must

- (a) provide a means for any person who may be affected by it to make suggestions and representations,
- (b) notify the public of the plan preparation process and of the means to make suggestions and representations referred to in clause (a),
- (c) notify the school boards with jurisdiction in the area to which the plan preparation applies and provide opportunities to those authorities to make suggestions and representations,
- (d) in the case of a municipal development plan, notify adjacent municipalities of the plan preparation and

provide opportunities to those municipalities to make suggestions and representations, and

- (e) in the case of an area structure plan, where the land that is the subject of the plan is adjacent to another municipality, notify that municipality of the plan preparation and provide opportunities to that municipality to make suggestions and representations.

(2) Subsection (1) does not apply to amendments to statutory plans.

RSA 2000 cM-26 s636;2008 c37 s11

#### **Effect of plans**

**637** The adoption by a council of a statutory plan does not require the municipality to undertake any of the projects referred to in it.

1995 c24 s95

#### **Plans consistent**

**638** All statutory plans adopted by a municipality must be consistent with each other.

1995 c24 s95

#### **Conflict with ALSA regional plans**

**638.1** In the event of a conflict or inconsistency between

- (a) a statutory plan or a land use bylaw, and
- (b) an ALSA regional plan,

the ALSA regional plan prevails to the extent of the conflict or inconsistency.

2009 cA-26.8 s83

## **Division 5 Land Use**

#### **Land use bylaw**

**639** Every municipality must pass a land use bylaw.

1995 c24 s95

#### **Protection of agricultural operations**

**639.1** In preparing a land use bylaw, a municipality must consider the protection of agricultural operations unless an ALSA regional plan requires agricultural operations to be protected or requires agricultural land or land for agricultural purposes to be protected, conserved or enhanced, in which case the municipality must comply with the ALSA regional plan.

RSA 2000 c21(Supp) s5;2009 cA-26.8 s83

**Land use bylaw**

**640(1)** A land use bylaw may prohibit or regulate and control the use and development of land and buildings in a municipality.

**(2)** A land use bylaw

- (a) must divide the municipality into districts of the number and area the council considers appropriate;
- (b) must, unless the district is designated as a direct control district pursuant to section 641, prescribe with respect to each district,
  - (i) the one or more uses of land or buildings that are permitted in the district, with or without conditions, or
  - (ii) the one or more uses of land or buildings that may be permitted in the district at the discretion of the development authority, with or without conditions,or both;
- (c) must establish a method of making decisions on applications for development permits and issuing development permits for any development, including provision for
  - (i) the types of development permit that may be issued,
  - (ii) applying for a development permit,
  - (iii) processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,
  - (iv) the conditions that are to be attached, or that the development authority may attach, to a development permit, either generally or with respect to a specific type of permit,
  - (v) how long any type of development permit remains in effect,
  - (vi) the discretion that the development authority may exercise with respect to development permits, and
  - (vii) any other matters necessary to regulate and control the issue of development permits that to the council appear necessary;

- (d) must provide for how and to whom notice of the issuance of a development permit is to be given;
- (e) must establish the number of dwelling units permitted on a parcel of land.

**(3)** A land use bylaw may identify additional land as adjacent land for the purposes of section 692.

**(4)** Without restricting the generality of subsection (1), a land use bylaw may provide for one or more of the following matters, either generally or with respect to any district or part of a district established pursuant to subsection (2)(a):

- (a) subdivision design standards;
- (b) the ground area, floor area, height, size and location of buildings;
- (c) the amount of land to be provided around or between buildings;
- (d) the landscaping of land or buildings;
- (e) the location, height and maintenance of fences and walls;
- (f) the establishment and maintenance of
  - (i) off-street or other parking facilities, and
  - (ii) loading and unloading facilities,and any other similar matters;
- (g) the design, character and appearance of buildings;
- (h) the location and amount of access to lots from roads and ensuring that there is at least one means of access from each lot to a road;
- (i) the lighting of land, buildings or other things;
- (j) the enlargement, alteration, repair, removal or relocation of buildings;
- (k) the excavation or filling in of land;
- (l) the development of buildings
  - (i) on land subject to flooding or subsidence or that is low lying, marshy or unstable,

- (ii) on land adjacent to or within a specified distance of the bed and shore of any lake, river, stream or other body of water, or
- (iii) subject to regulations made under section 693 or 694, within a specified area around an airport;
- (m) the construction, placement or use of billboards, signboards or other advertising devices of any kind, and if they are permitted at all, governing their height, size and character;
- (n) the removal, repair or renovation of billboards, signboards or other advertising devices of any kind;
- (o) the density of population in any district or part of it;
- (p) the designation of a district as a direct control district in accordance with section 641;
- (q) the establishment of any related agreements, forms, fees or procedural matters;
- (r) issuing orders under section 645.

**(5)** A land use bylaw may provide that when an application for a development permit or change in land use designation is refused another application with respect to the same lot

- (a) for a development permit for the same or a similar use, or
- (b) for a change in land use designation

may not be made by the same or any other applicant until the time stated in the land use bylaw has expired.

**(6)** A land use bylaw may authorize a development authority to decide on an application for a development permit even though the proposed development does not comply with the land use bylaw or is a non-conforming building if, in the opinion of the development authority,

- (a) the proposed development would not
  - (i) unduly interfere with the amenities of the neighbourhood, or
  - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and



- (b) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

1995 c24 s95;1996 c30 s58

#### **Designation of direct control districts**

**641(1)** The council of a municipality that has adopted a municipal development plan, if it wishes to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use bylaw designate that area as a direct control district.

(2) If a direct control district is designated in a land use bylaw, the council may, subject to any applicable statutory plan, regulate and control the use or development of land or buildings in the district in any manner it considers necessary.

(3) In respect of a direct control district, the council may decide on a development permit application or may delegate the decision to a development authority with directions that it considers appropriate.

(4) Despite section 685, if a decision with respect to a development permit application in respect of a direct control district

- (a) is made by a council, there is no appeal to the subdivision and development appeal board, or
- (b) is made by a development authority, the appeal is limited to whether the development authority followed the directions of council, and if the subdivision and development appeal board finds that the development authority did not follow the directions it may, in accordance with the directions, substitute its decision for the development authority's decision.

1995 c24 s95;1996 c30 s59

#### **Permitted and discretionary uses**

**642(1)** When a person applies for a development permit in respect of a development provided for by a land use bylaw pursuant to section 640(2)(b)(i), the development authority must, if the application otherwise conforms to the land use bylaw, issue a development permit with or without conditions as provided for in the land use bylaw.

(2) When a person applies for a development permit in respect of a development that may, in the discretion of a development authority, be permitted pursuant to section 640(2)(b)(ii), the development authority may issue a development permit with or without conditions as provided for in the land use bylaw.

- (3) A decision of a development authority on an application for a development permit must be in writing, and a copy of it must be given to the applicant.
- (4) If a development authority refuses an application for a development permit, the decision must include the reasons for the refusal.

1995 c24 s95

**Non-conforming use and non-conforming buildings**

**643(1)** If a development permit has been issued on or before the day on which a land use bylaw or a land use amendment bylaw comes into force in a municipality and the bylaw would make the development in respect of which the permit was issued a non-conforming use or non-conforming building, the development permit continues in effect in spite of the coming into force of the bylaw.

(2) A non-conforming use of land or a building may be continued but if that use is discontinued for a period of 6 consecutive months or more, any future use of the land or building must conform with the land use bylaw then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to it or in it.

(4) A non-conforming use of part of a lot may not be extended or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed on the lot while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except

- (a) to make it a conforming building,
- (b) for routine maintenance of the building, if the development authority considers it necessary, or
- (c) in accordance with a land use bylaw that provides minor variance powers to the development authority for the purposes of this section.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the land use bylaw.

(7) The land use or the use of a building is not affected by a change of ownership or tenancy of the land or building.

1995 c24 s95

#### **Acquisition of land designated for public use**

**644(1)** If land is designated under a land use bylaw for use or intended use as a municipal public building, school facility, park or recreation facility and the municipality does not own the land, the municipality must within 6 months from the date the land is designated do one of the following:

- (a) acquire the land or require the land to be provided as reserve land;
- (b) commence proceedings to acquire the land or to require the land to be provided as reserve land and then acquire that land within a reasonable time;
- (c) amend the land use bylaw to designate the land for another use or intended use.

(2) Subsection (1) does not apply if the Crown in right of Canada, the Crown in right of Alberta, an irrigation district, a board of a drainage district or a local authority, within 6 months from the date the land is designated under that subsection,

- (a) acquires that land, or
- (b) commences proceedings to acquire that land or requires that land to be provided as reserve land and then acquires it within a reasonable time.

1995 c24 s95;1999 c1-11.7 s214

#### **Stop order**

**645(1)** Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

(3) A person who receives a notice referred to in subsection (2) may appeal to the subdivision and development appeal board in accordance with section 685.

1995 c24 s95

#### **Enforcement of stop order**

**646(1)** If a person fails or refuses to comply with an order directed to the person under section 645 or an order of a subdivision and development appeal board under section 687, the municipality may, in accordance with section 542, enter on the land or building and take any action necessary to carry out the order.

(2) A municipality may register a caveat under the *Land Titles Act* in respect of an order referred to in subsection (1) against the certificate of title for the land that is the subject of the order.

(3) If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the order has been complied with.

1995 c24 s95

## **Division 6 Development Levies and Conditions**

#### **Redevelopment levies**

**647(1)** If a person applies for a development permit in respect of development in a redevelopment area and the area redevelopment plan contains proposals for residential, commercial or industrial development, a redevelopment levy may be imposed on the applicant in accordance with the bylaw adopting the area redevelopment plan.

(2) A redevelopment levy imposed and collected must be used to provide, in respect of the redevelopment area,

- (a) land for a park or land for school buildings designed for the instruction or accommodation of students, or
- (b) land for new or expanded recreation facilities,

or both.

(3) On September 1, 1995 a redevelopment levy under the former Act continues as a redevelopment levy under this Part.

(4) A redevelopment levy imposed and collected under this Part or the former Act may be imposed and collected only once in respect of a development.

(5) A redevelopment levy imposed pursuant to this Part may vary between one class of development and another in a redevelopment area.

(6) If a redevelopment levy is collected, the municipality must pay that portion of the levy imposed to provide land for school buildings designed for the instruction or accommodation of students to the one or more school boards.

RSA 2000 cM-26 s647;2008 c37 s11

#### **Off-site levy**

**648(1)** For the purposes referred to in subsection (2), a council may by bylaw

- (a) provide for the imposition and payment of a levy, to be known as an “off-site levy”, in respect of land that is to be developed or subdivided, and
- (b) authorize an agreement to be entered into in respect of the payment of the levy.

(2) An off-site levy may be used only to pay for all or part of the capital cost of any or all of the following:

- (a) new or expanded facilities for the storage, transmission, treatment or supplying of water;
- (b) new or expanded facilities for the treatment, movement or disposal of sanitary sewage;
- (c) new or expanded storm sewer drainage facilities;
- (c.1) new or expanded roads required for or impacted by a subdivision or development;
- (d) land required for or in connection with any facilities described in clauses (a) to (c.1).

(3) On September 1, 1995 an off-site levy under the former Act continues as an off-site levy under this Part.

(4) An off-site levy imposed under this Part or the former Act may be collected only once in respect of land that is the subject of a development or a subdivision.

(5) An off-site levy collected under this section, and any interest earned from the investment of the levy,

- (a) must be accounted for separately from other levies collected under this section, and
- (b) must be used only for the specific purpose described in subsection (2)(a) to (c.1) for which it is collected or for the land required for or in connection with that purpose.

(6) A bylaw under subsection (1) must be advertised in accordance with section 606 unless

- (a) the bylaw is passed before January 1, 2004, or
- (b) the bylaw is passed on or after January 1, 2004 but at least one reading was given to the proposed bylaw before that date.

(7) Where after March 1, 1978 and before January 1, 2004 a fee or other charge was imposed on a developer by a municipality pursuant to a development agreement entered into by the developer and the municipality for the purpose described in subsection (2)(c.1), that fee or charge is deemed

- (a) to have been imposed pursuant to a bylaw under this section, and
- (b) to have been validly imposed and collected

effective from the date the fee or charge was imposed.

RSA 2000 cM-26 s648;2003 c43 s3

#### **Levy bylaws**

**649** A bylaw that authorizes a redevelopment levy or an off-site levy must set out the object of each levy and indicate how the amount of the levy was determined.

1995 c24 s95

#### **Condition of issuing development permit**

**650(1)** A council may in a land use bylaw require that, as a condition of a development permit's being issued, the applicant enter into an agreement with the municipality to do any or all of the following:

- (a) to construct or pay for the construction of a road required to give access to the development;

- (b) to construct or pay for the construction of
  - (i) a pedestrian walkway system to serve the development, or
  - (ii) pedestrian walkways to connect the pedestrian walkway system serving the development with a pedestrian walkway system that serves or is proposed to serve an adjacent development,or both;
- (c) to install or pay for the installation of public utilities, other than telecommunications systems or works, that are necessary to serve the development;
- (d) to construct or pay for the construction of
  - (i) off-street or other parking facilities, and
  - (ii) loading and unloading facilities;
- (e) to pay an off-site levy or redevelopment levy;
- (f) to give security to ensure that the terms of the agreement under this section are carried out.

**(2)** A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under this section against the certificate of title for the land that is the subject of the development.

**(3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the agreement has been complied with.

1995 c24 s95

#### **Agreements re oversize improvements**

**651(1)** An agreement referred to in section 648, 650 or 655 may require the applicant for a development permit or subdivision approval

- (a) to pay for all or a portion of the cost of an improvement constructed or paid for in whole or in part by a municipality at any time prior to the date of approval of the development permit or subdivision approval application, or
- (b) to construct or pay for all or a portion of an improvement with an excess capacity.

**(2)** An agreement referred to in subsection (1)(b) or (3) that obliges an applicant for a development permit or subdivision

approval to construct or pay for an improvement with an excess capacity may also provide for the reimbursement of the cost incurred or payment made in respect of the excess capacity together with interest calculated at the rate fixed pursuant to subsection (4) on the amount of the cost until the land that benefits from the excess capacity is developed or subdivided.

(3) If a municipality has at any time, either before or after this section comes into force, or before or after section 77.1 of the *Planning Act* was deemed to come into force, entered into an agreement providing for reimbursement of payments made or costs incurred in respect of the excess capacity of an improvement by an applicant for a development permit or subdivision approval, the municipality must, when other land that benefits from the improvement is developed or subdivided, enter into an agreement with the applicant for a development permit or subdivision approval for the other land, and that agreement may require the applicant to pay an amount in respect of the improvement, as determined by the municipality, which may be in excess of the cost of the improvement required for the proposed development or subdivision.

(4) An agreement made in accordance with subsection (1)(a) or (3) may require that, in addition to paying for all or part of the cost of an improvement, an applicant for a development permit or subdivision approval must pay reasonable interest on the cost in an amount to be fixed by the municipality.

(5) In this section,

- (a) “excess capacity” means any capacity in excess of that required for a proposed development or subdivision;
- (b) “improvement” means
  - (i) a facility or land referred to in section 648(2), or
  - (ii) a road, pedestrian walkway, utility or facility referred to in section 650(1) or 655(1)(b),

whether or not located on the land to be developed or subdivided and whether or not constructed at the time of development or subdivision approval.

1995 c24 s95

#### **Restrictive covenant**

**651.1(1)** In this section, “restrictive covenant” means a condition or covenant under which land, or any specified portion of land, is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land.



(2) Despite the *Land Titles Act* or any other enactment, a municipality may register a caveat under the *Land Titles Act* in respect of any restrictive covenant granted by the registered owner of a parcel of land to the municipality for the benefit of land that is under the direction, control and management of the municipality whether or not the municipality has been issued a certificate of title to that land.

(3) A caveat registered pursuant to subsection (2)

- (a) shall be registered against the certificate of title to the parcel of land
  - (i) that is subject to the restrictive covenant, and
  - (ii) that was issued to the person who granted the restrictive covenant,
- (b) has the same force and effect as if it had been a condition or covenant registered under section 48 of the *Land Titles Act*,
- (c) may be discharged only by the municipality or an order of a court, and
- (d) does not lapse pursuant to the provisions of the *Land Titles Act* governing the lapsing of caveats.

1999 c11 s43

### **Encroachment agreements**

**651.2(1)** In this section, “encroachment agreement” means an agreement under which a municipality permits the encroachment onto a road that is under the direction, control and management of the municipality of improvements made on land that is adjoining that road.

(2) Despite the *Land Titles Act* or any other enactment, a municipality may register a caveat under the *Land Titles Act* in respect of any encroachment agreement entered into by the municipality with the registered owner of a parcel of land that adjoins a road that is under the direction, control and management of the municipality.

(3) A caveat registered pursuant to subsection (2)

- (a) shall be registered against the certificate of title to the parcel of land
  - (i) that is adjoining the road, and

- (ii) that was issued to the person who entered into the encroachment agreement with the municipality,
- (b) has the same force and effect as if it had been an encroachment agreement registered under section 72 of the *Land Titles Act*,
- (c) may be discharged only by the municipality or an order of a court, and
- (d) does not lapse pursuant to the provisions of the *Land Titles Act* governing the lapsing of caveats.

1999 c11 s43

## Division 7 Subdivision of Land

### Subdivision approval required

**652(1)** A Registrar may not accept for registration an instrument that has the effect or may have the effect of subdividing a parcel of land unless the subdivision has been approved by a subdivision authority.

**(2)** Despite subsection (1) and subject to subsection (4), a Registrar may accept for registration without subdivision approval an instrument that has the effect or may have the effect of subdividing a parcel of land described in a certificate of title if registration of the instrument results in the issuing of one or more certificates of title and the parcel of land described in each certificate of title so issued would consist only of any or all of the following:

- (a) a quarter section;
- (b) a river lot shown on an official plan, as defined in the *Surveys Act*, that is filed or lodged in a land titles office;
- (c) a lake lot shown on an official plan, as defined in the *Surveys Act*, that is filed or lodged in a land titles office;
- (d) a settlement lot shown on an official plan, as defined in the *Surveys Act*, that is filed or lodged in a land titles office;
- (e) a part of the parcel of land described in the existing title if the boundaries of the part are shown and delineated on a plan of subdivision;
- (f) a parcel of land created pursuant to a bylaw passed by a municipality under section 665.

(3) For the purpose of subsection (2), a parcel of land is deemed to be a quarter section, river lot, lake lot or settlement lot if the parcel of land would consist of a quarter section, river lot, lake lot or settlement lot except that land has been removed from the parcel of land by a subdivision effected only for a purpose referred to in section 618(1) or by a plan of subdivision or any other instrument that effected a subdivision.

(4) Unless the subdivision of the parcel of land has been approved by a subdivision authority, the Registrar may not accept for registration an instrument that has the effect or may have the effect of subdividing a parcel of land

- (a) if the parcel of land is described in a plan of subdivision that was registered in a land titles office before July 1, 1950, and
- (b) if the parcel of land contains 2 or more lots one or more of which is less than 8.0 hectares in area.

(5) A Registrar may not accept a caveat for registration that relates to an instrument that has the effect or may have the effect of subdividing a parcel of land unless

- (a) subdivision approval is not required in respect of that subdivision pursuant to subsection (2), or
- (b) subdivision approval has been granted in respect of that subdivision.

1995 c24 s95

#### **Application for subdivision approval**

**653(1)** A person may apply to a subdivision authority for subdivision approval in accordance with the subdivision and development regulations by submitting to the subdivision authority a proposed plan of subdivision or other instrument that describes the subdivision.

(2) If a subdivision application includes a form on which the applicant for subdivision approval may or may not consent to the municipality or its delegate carrying out an inspection, at a reasonable time, of the land that is the subject of the application and if the applicant signs a consent to the inspection, a notice of inspection is not required to be given under section 542(1).

(3) On receipt of an application for subdivision approval, the subdivision authority must give a copy of the application to the Government departments, persons and local authorities required by the subdivision and development regulations.

**(4)** On receipt of an application for subdivision approval, the subdivision authority must give notice of the application to owners of the land that is adjacent to the land that is the subject of the application.

**(4.1)** Despite subsection (4), a subdivision authority is not required to give notice to owners of adjacent lands if the land that is the subject of the application is contained within an area structure plan or a conceptual scheme and a public hearing has been held with respect to that plan or scheme.

**(4.2)** A notice under subsection (4) must be given by one of the following methods and may be given by more than one of the following methods:

- (a) mailing the notice to each owner of land that is adjacent to the land that is the subject of the application;
- (b) posting the notice on the land that is the subject of the application;
- (c) publishing a notice in a newspaper that has general circulation in the municipality that contains the land that is the subject of the application.

**(4.3)** A notice under subsection (4) must include

- (a) the municipal address, if any, and the legal address of the parcel of land, and
- (b) a map showing the location of the parcel of land.

**(4.4)** For the purposes of this section,

- (a) “adjacent land” means land that is contiguous to the parcel of land that is being subdivided and includes
  - (i) land that would be contiguous if not for a highway, road, river or stream, and
  - (ii) any other land identified in the land use bylaw as adjacent land for the purpose of notification under this section;
- (b) “conceptual scheme” means a conceptual scheme adopted by the municipality that
  - (i) relates a subdivision application to the future subdivision and development of adjacent areas, and
  - (ii) has been referred to the persons to whom the subdivision authority must send a copy of the

complete application for subdivision pursuant to the subdivision and development regulations;

(c) “owner” means the person shown as the owner of land on the assessment roll prepared under Part 9.

(5) A notice under subsection (4) must describe the nature of the application, the method of obtaining further information about the application and the manner in which and time within which written submissions may be made to the subdivision authority.

(6) A subdivision authority, when considering an application under this section,

(a) must consider the written submissions of those persons and local authorities to whom an application for subdivision approval or notice of application was given in accordance with this section but is not bound by the submissions unless required by the subdivision and development regulations, and

(b) is not required to hold a hearing.

(7) Repealed 1996 c30 s60.

1995 c24 s95;1996 c30 s60

#### **Approval of application**

**654(1)** A subdivision authority must not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision authority, suitable for the purpose for which the subdivision is intended,
- (b) the proposed subdivision conforms to the provisions of any statutory plan and, subject to subsection (2), any land use bylaw that affects the land proposed to be subdivided,
- (c) the proposed subdivision complies with this Part and the regulations under this Part, and
- (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the municipality where the land is located or arrangements satisfactory to the municipality have been made for their payment pursuant to Part 10.

(2) A subdivision authority may approve an application for subdivision approval even though the proposed subdivision does not comply with the land use bylaw if, in its opinion,

- (a) the proposed subdivision would not
  - (i) unduly interfere with the amenities of the neighbourhood, or
  - (ii) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

and

- (b) the proposed subdivision conforms with the use prescribed for that land in the land use bylaw.

**(3)** A subdivision authority may approve or refuse an application for subdivision approval.

1995 c24 s95

#### **Conditions of subdivision approval**

**655(1)** A subdivision authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision and development regulations on a subdivision approval issued by it:

- (a) any conditions to ensure that this Part and the statutory plans and land use bylaws and the regulations under this Part, and any applicable ALSA regional plan, affecting the land proposed to be subdivided are complied with;
- (b) a condition that the applicant enter into an agreement with the municipality to do any or all of the following:
  - (i) to construct or pay for the construction of a road required to give access to the subdivision;
  - (ii) to construct or pay for the construction of
    - (A) a pedestrian walkway system to serve the subdivision, or
    - (B) pedestrian walkways to connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,or both;
- (iii) to install or pay for the installation of public utilities, other than telecommunications systems or works, that are necessary to serve the subdivision;
- (iv) to construct or pay for the construction of

- (A) off-street or other parking facilities, and
- (B) loading and unloading facilities;
- (v) to pay an off-site levy or redevelopment levy imposed by bylaw;
- (vi) to give security to ensure that the terms of the agreement under this section are carried out.

**(2)** A municipality may register a caveat under the *Land Titles Act* in respect of an agreement under subsection (1)(b) against the certificate of title for the parcel of land that is the subject of the subdivision.

**(3)** If a municipality registers a caveat under subsection (2), the municipality must discharge the caveat when the agreement has been complied with.

RSA 2000 cM-26 s655;2009 cA-26.8 s83

#### **Decision**

**656(1)** A decision of a subdivision authority must be given in writing to the applicant and to the Government departments, persons and local authorities to which the subdivision authority is required by the subdivision and development regulations to give a copy of the application.

**(2)** A decision of a subdivision authority must state

- (a) whether an appeal lies to a subdivision and development appeal board or to the Municipal Government Board, and
- (b) if an application for subdivision approval is refused, the reasons for the refusal.

**(3)** If an application for subdivision approval is refused, the subdivision authority may refuse to accept for consideration, with respect to the same land or part of the same land, a further application for subdivision approval submitted to it within the 6-month period after the date of the subdivision authority's decision to refuse the application.

1995 c24 s95

#### **Subdivision registration**

**657(1)** An applicant for subdivision approval must submit to the subdivision authority the plan of subdivision or other instrument that effects the subdivision within one year from the latest of the following dates:

- (a) the date on which the subdivision approval is given to the application;

- (b) if there is an appeal to the subdivision and development appeal board or the Municipal Government Board, the date of that board's decision or the date on which the appeal is discontinued;
- (c) if there is an appeal to the Court of Appeal under section 688, the date on which the judgment of the Court is entered or the date on which the appeal is discontinued.

(2) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any conditions imposed have been met, the subdivision authority must endorse the plan or other instrument in accordance with the subdivision and development regulations.

(3) On being satisfied that a plan of subdivision or other instrument complies with a subdivision approval but conditions to which the approval is subject have not been met, a subdivision authority may endorse the plan or other instrument in accordance with the subdivision and development regulations if the subdivision authority is satisfied that the conditions will be met.

(4) If the plan of subdivision or other instrument is not submitted to the subdivision authority within the time prescribed by subsection (1) or any longer period authorized by the council, the subdivision approval is void.

(5) If the plan of subdivision or other instrument is not registered in a land titles office within one year after the date on which it is endorsed pursuant to this section or within the extended period prescribed under subsection (6), the subdivision approval of the plan or instrument and the endorsement are void and the plan or instrument may not be accepted by a Registrar for registration.

(6) The council may extend

- (a) the one-year period referred to in subsection (1), or
- (b) the one-year period referred to in subsection (5),

whether or not the time period under those subsections has expired.

1995 c24 s95

#### **Cancellation of plan of subdivision**

**658(1)** On the application of one or more owners of a parcel of land in a plan of subdivision, a council may by bylaw order the plan cancelled, in whole or in part.

(2) A council may pass a bylaw under subsection (1) only with the consent of



- (a) the owners of the parcel of land in the plan of subdivision,
- (b) every person shown on the certificate of title of the land in the plan of subdivision as having an estate or interest in it, and
- (c) the Crown in right of Alberta, if the plan of subdivision shows a highway or road or other right of way vested in the Crown for which no certificate of title has been issued.

**(3)** A plan cancellation may not be effected only or primarily for the purpose of disposing of reserves.

**(3.1)** If all of a plan is cancelled, deferred reserve caveats and environmental reserve easements are also cancelled.

**(4)** If all reserve land has been cancelled from a plan of subdivision, the resulting parcel of land, if it is subsequently subdivided, may be subject to the provisions of this Part respecting reserves.

**(5)** If a plan is cancelled in part, a deferred reserve caveat may be placed against the consolidated certificate of title reflecting any reserve land that was cancelled and that will be owing if the parcel is subsequently subdivided.

1995 c24 s95;1996 c30 s61

#### **Collection of taxes**

**659** When a plan of subdivision or part of it has been cancelled, all taxes, assessments or rates in arrears or due on the separate lots or blocks within the area of which the plan has been cancelled become taxes, assessments or rates on or in respect of the area, and all the remedies for the enforcement and collection of taxes, assessments and rates formerly applicable for the recovery of the taxes, assessments or rates on the separate lots or blocks apply as if the taxes, assessments or rates had been levied against the whole area of the cancelled plan.

1995 c24 s95

#### **Cancellation registered**

**660** On receipt of a copy of a bylaw under section 658 and on payment of the applicable fees, the Registrar must

- (a) cancel the plan of subdivision in whole or in part in accordance with the bylaw,
- (b) cancel the certificate of title issued according to the original plan and issue any new certificates of title required by the bylaw, and

- (c) make any other cancellations and registrations and do all things necessary to give effect to the bylaw.

1995 c24 s95

## **Division 8 Reserve Land, Land for Roads and Utilities**

### **Land dedication**

**661** The owner of a parcel of land that is the subject of a proposed subdivision must provide, without compensation,

- (a) to the Crown in right of Alberta or a municipality, land for roads, public utilities and environmental reserve, and
- (b) subject to section 663, to the Crown in right of Alberta, a municipality, one or more school boards or a municipality and one or more school boards, land for municipal reserve, school reserve, municipal and school reserve, money in place of any or all of those reserves or a combination of reserves and money,

as required by the subdivision authority pursuant to this Division.

RSA 2000 cM-26 s661;2008 c37 s11

### **Roads, utilities, etc.**

**662(1)** A subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land for the purpose of roads, public utilities or both.

**(2)** The land to be provided under subsection (1) may not exceed 30% of the area of the parcel of land less the land taken as environmental reserve or as an environmental reserve easement.

**(3)** If the owner has provided sufficient land for the purposes referred to in subsection (1) but the land is less than the maximum amount authorized by subsection (2), the subdivision authority may not require the owner to provide any more land for those purposes.

1995 c24 s95

### **Reserves not required**

**663** A subdivision authority may not require the owner of a parcel of land that is the subject of a proposed subdivision to provide reserve land or money in place of reserve land if

- (a) one lot is to be created from a quarter section of land,
- (b) land is to be subdivided into lots of 16.0 hectares or more and is to be used only for agricultural purposes,

- (c) the land to be subdivided is 0.8 hectares or less, or
- (d) reserve land, environmental reserve easement or money in place of it was provided in respect of the land that is the subject of the proposed subdivision under this Part or the former Act.

1995 c24 s95;1996 c30 s62

**Environmental reserve**

**664(1)** Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land as environmental reserve if it consists of

- (a) a swamp, gully, ravine, coulee or natural drainage course,
- (b) land that is subject to flooding or is, in the opinion of the subdivision authority, unstable, or
- (c) a strip of land, not less than 6 metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
  - (i) preventing pollution, or
  - (ii) providing public access to and beside the bed and shore.

**(2)** If the owner of a parcel of land that is the subject of a proposed subdivision and the municipality agree that any or all of the land that is to be taken as environmental reserve is instead to be the subject of an environmental reserve easement for the protection and enhancement of the environment, an easement may be registered against the land in favour of the municipality at a land titles office.

**(3)** The environmental reserve easement

- (a) must identify which part of the parcel of land the easement applies to,
- (b) must require that land that is subject to the easement remain in a natural state as if it were owned by the municipality, whether or not the municipality has an interest in land that would be benefitted by the easement,
- (c) runs with the land on any disposition of the land,
- (d) constitutes an interest in land in the municipality, and
- (e) may be enforced by the municipality.

- (4) An environmental reserve easement does not lapse by reason only of
- (a) non-enforcement of it,
  - (b) the use of the land that is the subject of the easement for a purpose that is inconsistent with the purposes of the easement, or
  - (c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the easement.
- (5) When an easement is presented for registration under subsection (2), the Registrar must endorse a memorandum of the environmental reserve easement on any certificate of title relating to the land.
- (6) Despite section 48(4) of the *Land Titles Act*, an easement registered under subsection (2) may be removed only pursuant to section 658(3.1).
- (7) An environmental reserve easement is deemed to be a condition or covenant for the purposes of section 48(4) and (6) of the *Land Titles Act*.
- (8) Subject to subsection (7), this section applies despite section 48 of the *Land Titles Act*.
- (9) A caveat registered under this section prior to April 30, 1998 is deemed to be an environmental reserve easement registered under this section.

1995 c24 s95;1996 c30 s63;1998 c24 s57

#### **Designation of municipal land**

- 665(1)** A council may by bylaw require that a parcel of land or a part of a parcel of land that it owns or that it is in the process of acquiring be designated as municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot.
- (2) Subject to subsection (3), on receipt of a copy of a bylaw under this section and the applicable fees, the Registrar must do all things necessary to give effect to the order, including cancelling the existing certificate of title and issuing a new certificate of title for each newly created parcel of land with the designation of
- (a) municipal reserve, which must be identified by a number suffixed by the letters “MR”,
  - (b) public utility lot, which must be identified by a number suffixed by the letters “PUL”,

- (c) environmental reserve, which must be identified by a number suffixed by the letters “ER”,
- (d) school reserve, which must be identified by a number suffixed by the letters “SR”,
- (e) municipal and school reserve, which must be identified by a number suffixed by the letters “MSR”, or
- (f) a lot, which must be identified by a number.

**(3)** The certificate of title for a municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot under this section must be free of all encumbrances, as defined in the *Land Titles Act*.

1995 c24 s95

#### **Municipal and school reserves**

**666(1)** Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision

- (a) to provide part of that parcel of land as municipal reserve, school reserve or municipal and school reserve,
- (b) to provide money in place of municipal reserve, school reserve or municipal and school reserve, or
- (c) to provide any combination of land or money referred to in clauses (a) and (b).

**(2)** The aggregate amount of land that may be required under subsection (1) may not exceed the percentage set out in the municipal development plan, which may not exceed 10% of the parcel of land less the land required to be provided as environmental reserve and the land made subject to an environmental reserve easement.

**(3)** The total amount of money that may be required to be provided under subsection (1) may not exceed 10% of the appraised market value, determined in accordance with section 667, of the parcel of land less the land required to be provided as environmental reserve and the land subject to an environmental reserve easement.

**(4)** When a combination of land and money is required to be provided, the sum of

- (a) the percentage of land required under subsection (2), and
- (b) the percentage of the appraised market value of the land required under subsection (3)

may not exceed 10% or a lesser percentage set out in the municipal development plan.

1995 c24 s95

**Money in place of municipal, school reserve**

**667(1)** If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the applicant must provide

- (a) a market value appraisal of the existing parcel of land as of a specified date occurring within the 35-day period following the date on which the application for subdivision approval is made
  - (i) as if the use proposed for the land that is the subject of the proposed subdivision conforms with any use prescribed in a statutory plan or land use bylaw for that land, and
  - (ii) on the basis of what might be expected to be realized if the land were in an unsubdivided state and sold in the open market by a willing seller to a willing buyer on the date on which the appraisal is made,

or

- (b) if the applicant and the subdivision authority agree, a land value based on a method other than that described in clause (a).

**(2)** If money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the subdivision authority must specify the amount of money required to be provided at the same time that subdivision approval is given.

1995 c24 s95

**Additional municipal and school reserve**

**668(1)** In this section, “developable land” means that area of land that is the subject of a proposed subdivision less the total of

- (a) land required to be provided for roads and public utilities under section 662, and
- (b) land required to be provided as reserve land.

**(2)** Subject to section 663, when in the opinion of the subdivision authority a proposed subdivision would result in a density of 30 dwelling units or more per hectare of developable land, the subdivision authority may require municipal reserve, school reserve or municipal and school reserve in addition to that required to be provided under section 666.

(3) The additional land that may be required to be provided under subsection (2) may not exceed the equivalent of 5% of the developable land or a lesser percentage as prescribed in the subdivision and development regulations.

1995 c24 s95

**Deferment of municipal and school reserves**

**669(1)** Despite sections 661(b) and 666, instead of requiring municipal reserve, school reserve or municipal and school reserve or money in place of any of them, a subdivision authority may direct that the requirement to provide all or part of those reserves be deferred against

- (a) the remainder of the parcel that is the subject of the proposed subdivision approval, or
- (b) other land of the person applying for subdivision approval that is within the same municipality as that parcel of land,

or both.

(2) If a deferment is directed under subsection (1), the subdivision authority must file a caveat in a land titles office against the title of the land to which the direction relates.

(3) The direction for a deferment under subsection (1) must

- (a) state the name of the applicant for subdivision approval,
- (b) describe the land that is the subject of the application for subdivision approval,
- (c) describe the land to which the deferment relates,
- (d) state the area of the land referred to in clause (b), and
- (e) state whether the deferment is in respect of municipal reserve, school reserve or municipal and school reserve.

(4) If an application for subdivision approval is made in respect of land against the title of which is filed a deferred reserve caveat under this section or a former Act, the subdivision authority may, in addition to requiring municipal reserve, school reserve or municipal and school reserve to be provided in accordance with this Division or a former Act, require to be provided all or part of the reserve land in respect of which a deferment was directed or required under this section or a former Act.

(5) If deferred reserve is provided in accordance with subsection (4), the caveat must be discharged or amended accordingly.

(6) If a deferred reserve caveat was registered in a land titles office under a former Act in respect of land in respect of which under section 663 no reserve land could be required to be provided, the registered owner may apply to the Registrar to endorse the certificate of title with a memorandum cancelling the registration of the caveat.

(7) On being satisfied that subsection (6) applies to the deferred reserve caveat, the Registrar must endorse a memorandum on the certificate of title cancelling the registration of the caveat.

1995 c24 s95;1996 c30 s64

#### **Allocation of municipal and school reserve**

**670(1)** When reserve land is required to be provided, the subdivision authority must specify the amount, type and location of reserve land that is to be provided, regardless of whether money is also required to be provided, and allocate the municipal reserve, school reserve and municipal and school reserve between the municipality and each school board concerned as joint owners or as separate owners

- (a) in accordance with an agreement made between the municipality and the school boards, or
- (b) in the absence of an agreement, in accordance with the needs of each of them as those needs are determined by the subdivision authority.

(2) When money is required to be provided in place of municipal reserve, school reserve or municipal and school reserve, the subdivision authority must allocate the money between the municipality and each school board concerned either jointly or separately

- (a) in accordance with an agreement made between the municipality and the school boards, or
- (b) in the absence of an agreement, in accordance with the needs of each of them as determined by the subdivision authority.

(3) When a combination of land and money is required to be provided, the subdivision authority must

- (a) specify the amount, type and location of reserve land that is to be provided, and
- (b) allocate the municipal reserve, school reserve or municipal and school reserve or money in place of any or all of them between the municipality and each school board concerned



in accordance with an agreement made between the municipality and the school boards, or in the absence of an agreement, in accordance with the needs of the municipality and the school boards as determined by the subdivision authority.

(4) A decision concerning the allocation of municipal reserve, school reserve, municipal and school reserve or money in place of any or all of them must be made before an application for subdivision approval is granted.

RSA 2000 cM-26 s670;2008 c37 ss10,11

## **Division 9 Use and Disposal of Reserve Land**

### **Use of reserve land, money**

**671(1)** Subject to section 676(1), environmental reserve must be left in its natural state or be used as a public park.

(2) Municipal reserve, school reserve or municipal and school reserve may be used by a municipality or school board or by them jointly only for any or all of the following purposes:

- (a) a public park;
- (b) a public recreation area;
- (c) school board purposes;
- (d) to separate areas of land that are used for different purposes.

(2.1) Community services reserve may be used by a municipality for any or all of the following purposes:

- (a) a public library;
- (b) a police station, a fire station or an ambulance services facility, or a combination of them;
- (c) a non-profit day care facility;
- (d) a non-profit senior citizens facility;
- (e) a non-profit special needs facility;
- (f) a municipal facility providing service directly to the public;
- (g) affordable housing.

(3) Despite that land is designated as municipal reserve, school reserve or municipal and school reserve, the municipality and one

or more school boards may enter into any agreement they consider necessary with respect to a use referred to in subsection (2) or for any matter related to the use.

(4) Money provided in place of municipal reserve, school reserve or municipal and school reserve and the interest earned on that money

- (a) must be accounted for separately, and
- (b) may be used only for any or all of the purposes referred to in subsection (2).

(5) For the purposes of subsection (2)(c), “school board purposes” means those purposes as determined by the Minister of Education under subsection (6).

(6) The Minister of Education may, by order, determine school board purposes for the purposes of subsection (5).

(7) An order made under subsection (6) is exempt from the application of the *Regulations Act*.

(8) The Minister of Education must publish in The Alberta Gazette a notice of any order made under subsection (6) and information about where copies of the order may be obtained or are available to the public.

RSA 2000 cM-26 s671;2008 c37 ss5,10,11

#### **Transfer of school and other reserves to municipality**

**672(1)** If a school board holds an interest in a school reserve, municipal and school reserve or municipal reserve under this Part or the former Act and declares that the reserve is surplus to the school board’s needs, the school board must transfer its interest in the land to the municipality where the reserve is located, for the consideration agreed on between them.

(2) On the registration in a land titles office of a transfer of land or an interest in land under subsection (1), the Registrar must designate the land as municipal reserve.

(3) Despite subsection (2), the council of a municipality may by bylaw require the school building envelope of the school reserve, municipal and school reserve or municipal reserve referred to in subsection (1) to be designated as community services reserve, in which case the Registrar, on receipt of a copy of the bylaw and a survey plan on which the school building envelope is outlined, must

- (a) issue a new certificate of title for the school building envelope with the designation of community services

reserve, which must be identified by a number suffixed by the letters “CSR”, and

- (b) issue a new certificate of title for the remaining land with the designation of municipal reserve, which must be identified in accordance with section 665(2)(a).

**(4)** The certificate of title for a community services reserve or a municipal reserve under this section must be free of all encumbrances as defined in the *Land Titles Act*.

**(5)** In subsection (3), “school building envelope” means

- (a) the portion of the reserve on which a school building and accompanying parking lot is situated, or
- (b) if no school building is situated on the reserve, the area of land on which a school and accompanying parking lot would be located if they had been built as determined by the municipality.

RSA 2000 cM-26 s672;2008 c37 s6

#### **Transfer to school authority**

**673(1)** A municipality may transfer municipal reserve or its interest in municipal and school reserve to a school board.

**(2)** On the registration in a land titles office of a transfer of land or an interest in land under subsection (1), the Registrar must designate the land as school reserve.

**(3)** If a transfer of land or an interest in land is effected pursuant to this section, the requirements of sections 674 and 675 do not apply to the transfer.

RSA 2000 cM-26 s673;2008 c37 s10

#### **Disposal of municipal and school reserve**

**674(1)** Despite section 70, if

- (a) a council wishes to sell, lease or otherwise dispose of municipal reserve or community services reserve, or
- (b) a council and a school board wish to sell, lease or otherwise dispose of municipal and school reserve,

a public hearing must be held in accordance with section 230 and must be advertised in accordance with section 606.

**(2)** In addition to the notice required under subsection (1), notices containing the information required under section 606 must be posted on or near the municipal reserve, community services

reserve or municipal and school reserve that is the subject of the hearing.

RSA 2000 cM-26 s674;2008 c37 ss7,10

### **Removal of designation as municipal reserve**

**675(1)** A council in the case of municipal reserve or community services reserve or a council and a school board in the case of municipal and school reserve may, after taking into consideration the representations made at a public hearing under section 674(1), direct a designated officer to notify the Registrar that the provisions of this Division have been complied with and request the Registrar to remove the designation of municipal reserve, community services reserve or municipal and school reserve.

**(2)** If the Registrar is satisfied that this Part has been complied with, the Registrar must remove the designation in accordance with the request made under subsection (1).

**(3)** On removal of the designation, the municipality or the municipality and the school board may sell, lease or otherwise dispose of the land, but the proceeds from the sale, lease or other disposition may be used

- (a) in the case of the sale, lease or other disposition of a municipal reserve or a municipal and school reserve, only for any or all of the purposes referred to in section 671(2) or for any matter connected to those purposes, and
- (b) in the case of the sale, lease or other disposition of a community services reserve, only for any or all of the purposes referred to in section 671(2.1) or for any matter connected to those purposes.

RSA 2000 cM-26 s675;2008 c37 ss8,10

### **Changes to environmental reserve's use or boundaries**

**676(1)** A council may by bylaw, after giving notice in accordance with section 606 and holding a public hearing in accordance with section 230,

- (a) use an environmental reserve for a purpose not specified in section 671(1),
- (b) transfer an environmental reserve to the Crown or an agent of the Crown for consideration, as agreed,
- (c) lease or dispose of an environmental reserve other than by a sale for a term of not more than 3 years, and
- (d) change the boundaries of an environmental reserve or environmental reserve easement in order to correct an

omission, error or other defect in the certificate of title, or to rectify an encroachment problem or other concern.

(2) A council may include terms and conditions in a bylaw under subsection (1).

(3) Any proceeds from a lease or other disposition under subsection (1) may be used only to provide land for any or all of the purposes referred to in section 671(2).

(4) On receipt of a bylaw under subsection (1)(b) or (d), the Registrar must cancel the existing certificates of title or amend an environmental reserve easement affected by the bylaw and issue any new certificates of title required by the bylaw.

1995 c24 s95

#### **Road, etc., over reserve land**

**677** Despite section 671, a municipality or a municipality and a school board may authorize

- (a) the construction, installation and maintenance, or any of them, of a roadway, public utility, pipeline as defined in the *Oil and Gas Conservation Act* or transmission line as defined in the *Hydro and Electric Energy Act* on, in, over or under reserve land, or
- (b) the maintenance and protection of reserve land,

if the interests of the public will not be adversely affected.

RSA 2000 cM-26 s677;2008 c37 s10

## **Division 10 Subdivision and Development Appeals**

### **Subdivision Appeals**

#### **Appeals**

**678(1)** The decision of a subdivision authority on an application for subdivision approval may be appealed

- (a) by the applicant for the approval,
- (b) by a Government department if the application is required by the subdivision and development regulations to be referred to that department,
- (c) by the council of the municipality in which the land to be subdivided is located if the council, a designated officer of the municipality or the municipal planning commission of the municipality is not the subdivision authority, or

- (d) by a school board with respect to
  - (i) the allocation of municipal reserve and school reserve or money in place of the reserve,
  - (ii) the location of school reserve allocated to it, or
  - (iii) the amount of school reserve or money in place of the reserve.

**(2)** An appeal under subsection (1) may be commenced by filing a notice of appeal within 14 days after receipt of the written decision of the subdivision authority or deemed refusal by the subdivision authority in accordance with section 681

- (a) with the Municipal Government Board if the land that is the subject of the application is within the Green Area, as classified by the Minister responsible for the *Public Lands Act*, or is within the distance of a highway, a body of water or a sewage treatment or waste management facility set out in the subdivision and development regulations, or
- (b) in all other cases, with the subdivision and development appeal board.

**(2.1)** Despite subsection (2)(a), if the land that is the subject-matter of the appeal would have been in an area described in subsection (2)(a) except that the affected Government department agreed, in writing, to vary the distance under the subdivision and development regulations, the notice of appeal must be filed with the subdivision and development appeal board.

**(3)** For the purpose of subsection (2), the date of receipt of the decision is deemed to be 5 days from the date the decision is mailed.

**(4)** A notice of appeal under this section must contain

- (a) the legal description and municipal location, if applicable, of the land proposed to be subdivided, and
- (b) the reasons for appeal, including the issues in the decision or the conditions imposed in the approval that are the subject of the appeal.

**(5)** If the applicant files a notice of appeal within 14 days after receipt of the written decision or the deemed refusal with the wrong board, that board must refer the appeal to the appropriate board and the appropriate board must hear the appeal as if the notice of appeal had been filed with it and it is deemed to have received the notice

of appeal from the applicant on the date it receives the notice of appeal from the first board.

RSA 2000 cM-26 s678;2008 c37 s10

#### **Notice of hearing**

**679(1)** The board hearing an appeal under section 678 must give at least 5 days' written notice of the hearing to

- (a) the applicant for subdivision approval,
- (b) the subdivision authority that made the decision,
- (c) if land that is the subject of the application is adjacent to the boundaries of another municipality, that municipality,
- (d) any school board to whom the application was referred, and
- (e) repealed 1996 c30 s66,
- (f) every Government department that was given a copy of the application pursuant to the subdivision and development regulations.

**(2)** The board hearing an appeal under section 678 must give at least 5 days' notice of the hearing in accordance with subsection **(3)** to owners of land that is adjacent to land that is the subject of the application.

**(3)** A notice under subsection **(2)** must be given in accordance with section 653(4.2).

**(4)** For the purposes of this section, "adjacent land" and "owner" have the same meanings as in section 653.

RSA 2000 cM-26 s679;2008 c37 s10

#### **Hearing and decision**

**680(1)** The board hearing an appeal under section 678 is not required to hear from any person or entity other than

- (a) a person or entity that was notified pursuant to section 679(1), and
- (b) each owner of adjacent land to the land that is the subject of the appeal,

or a person acting on any of those persons' behalf.

**(1.1)** For the purposes of subsection **(1)**, "adjacent land" and "owner" have the same meanings as in section 653.

**(2)** In determining an appeal, the board hearing the appeal

- (a) must act in accordance with any applicable ALSA regional plan;
- (a.1) must have regard to any statutory plan;
- (b) must conform with the uses of land referred to in a land use bylaw;
- (c) must be consistent with the land use policies;
- (d) must have regard to but is not bound by the subdivision and development regulations;
- (e) may confirm, revoke or vary the approval or decision or any condition imposed by the subdivision authority or make or substitute an approval, decision or condition of its own;
- (f) may, in addition to the other powers it has, exercise the same power as a subdivision authority is permitted to exercise pursuant to this Part or the regulations or bylaws under this Part.

**(3)** A subdivision and development appeal board hearing an appeal under section 678 must hold the hearing within 30 days after receiving a notice of appeal and give a written decision together with the reasons for the decision within 15 days after concluding the hearing.

**(4)** The Municipal Government Board hearing an appeal under section 678 must hold the hearing within 60 days after receiving a notice of appeal and give a written decision together with the reasons for the decision within 15 days after concluding the hearing.

RSA 2000 cM-26 s680;2009 cA-26.8 s83

#### **Failure to make decision**

**681(1)** If a subdivision authority fails or refuses to make a decision on an application for subdivision approval within the time prescribed by the subdivision and development regulations, the applicant may, within 14 days after the expiration of the time prescribed,

- (a) treat the application as refused and appeal it in accordance with section 678, or
- (b) enter into an agreement with the subdivision authority to extend the time prescribed in the subdivision and development regulations.



(2) If an agreement to extend is entered into pursuant to subsection (1)(b) and the subdivision authority fails or refuses to make a decision within the time prescribed in the agreement, the applicant may, within 14 days after the expiration of the extended period, treat the application as refused and appeal it in accordance with section 678.

(3) A subdivision authority may not deal with an application for subdivision approval after the expiration of the period of time prescribed in the subdivision and development regulations for making the decision unless an agreement is entered into pursuant to subsection (1)(b).

1995 c24 s95

#### **Endorsement of subdivision plan**

**682(1)** When on an appeal the Municipal Government Board or the subdivision and development appeal board approves an application for subdivision approval, the applicant must submit the plan of subdivision or other instrument to the subdivision authority from whom the appeal was made for endorsement by it.

(2) If a subdivision authority fails or refuses to endorse a plan of subdivision or other instrument submitted to it pursuant to subsection (1), the member of the board that heard the appeal who is authorized to endorse the instrument may do so.

1995 c24 s95

### **Development Appeals**

#### **Permit**

**683** Except as otherwise provided in a land use bylaw, a person may not commence any development unless the person has been issued a development permit in respect of it pursuant to the land use bylaw.

1995 c24 s95

#### **Permit deemed refused**

**684** An application for a development permit is, at the option of the applicant, deemed to be refused if the decision of a development authority is not made within 40 days after receipt of the application unless the applicant has entered into an agreement with the development authority to extend the 40-day period.

1995 c24 s95

#### **Grounds for appeal**

**685(1)** If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or

(c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

(3) Despite subsections (1) and (2), no appeal lies in respect of the issuance of a development permit for a permitted use unless the provisions of the land use bylaw were relaxed, varied or misinterpreted.

1995 c24 s95

### Appeals

**686(1)** A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
  - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or
  - (ii) if no decision is made with respect to the application within the 40-day period or within any extension under section 684, the date the period or extension expires,

or

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

(2) The subdivision and development appeal board must hold an appeal hearing within 30 days after receipt of a notice of appeal.

(3) The subdivision and development appeal board must give at least 5 days' notice in writing of the hearing

- (a) to the appellant,
- (b) to the development authority whose order, decision or development permit is the subject of the appeal, and

- (c) to those owners required to be notified under the land use bylaw and any other person that the subdivision and development appeal board considers to be affected by the appeal and should be notified.
- (4) The subdivision and development appeal board must make available for public inspection before the commencement of the hearing all relevant documents and materials respecting the appeal, including
  - (a) the application for the development permit, the decision and the notice of appeal, or
  - (b) the order under section 645.
- (5) In subsection (3), “owner” means the person shown as the owner of land on the assessment roll prepared under Part 9.

1995 c24 s95

**Hearing and decision**

**687(1)** At a hearing under section 686, the subdivision and development appeal board must hear

- (a) the appellant or any person acting on behalf of the appellant,
  - (b) the development authority from whose order, decision or development permit the appeal is made, or a person acting on behalf of the development authority,
  - (c) any other person who was given notice of the hearing and who wishes to be heard, or a person acting on behalf of that person, and
  - (d) any other person who claims to be affected by the order, decision or permit and that the subdivision and development appeal board agrees to hear, or a person acting on behalf of that person.
- (2) The subdivision and development appeal board must give its decision in writing together with reasons for the decision within 15 days after concluding the hearing.
- (3) In determining an appeal, the subdivision and development appeal board
- (a) must act in accordance with any applicable ALSA regional plan;
  - (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

- (b) must have regard to but is not bound by the subdivision and development regulations;
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
  - (i) the proposed development would not
    - (A) unduly interfere with the amenities of the neighbourhood, or
    - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
  - and
  - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

RSA 2000 cM-26 s687;2009 cA-26.8 s83

### **Court of Appeal**

#### **Law, jurisdiction appeals**

**688(1)** Despite section 506, an appeal lies to the Court of Appeal on a question of law or jurisdiction with respect to

- (a) a decision of the subdivision and development appeal board, and
- (b) the Municipal Government Board on a decision on an appeal under section 619, an intermunicipal dispute under Division 11 or a subdivision appeal under this Division.

**(2)** An application for leave to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for leave to appeal must be given to

- (a) the Municipal Government Board or the subdivision and development appeal board, as the case may be, and
- (b) any other persons that the judge directs.

**(2.1)** If an applicant makes a written request for materials to the Municipal Government Board or the subdivision and development appeal board, as the case may be, for the purposes of the application for leave to appeal under subsection (2), the Municipal Government Board or the subdivision and development appeal board, as the case may be, must provide the materials requested within 14 days from the date on which the written request is served.

**(2.2)** An applicant shall not request under subsection (2.1) the transcript of the hearing, but the Court of Appeal may, on application or on its own motion, if satisfied that the transcript is necessary for the purpose of determining the application for leave to appeal, direct that the Municipal Government Board or the subdivision and development appeal board, as the case may be, provide the transcript within the time provided by the Court.

**(3)** On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success.

**(4)** If a judge grants leave to appeal, the judge may

- (a) direct which persons or other bodies must be named as respondents to the appeal,
- (b) specify the questions of law or the questions of jurisdiction to be appealed, and
- (c) make any order as to the costs of the application that the judge considers appropriate.

**(4.1)** On leave to appeal being granted by a judge of the Court of Appeal, the appeal must proceed in accordance with the practice and procedure of the Court of Appeal.

**(4.2)** The notice of appeal must be given to the parties affected by the appeal and to the Municipal Government Board or the subdivision and development appeal board, as the case may be.

**(4.3)** Within 30 days from the date that the leave to appeal is obtained, the Municipal Government Board or the subdivision and development appeal board, as the case may be, must forward to the Registrar of the Court of Appeal the transcript and record of the hearing, its findings and reasons for the decision.

**(5)** If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice

of the application for leave to appeal and the board and the municipality

- (a) are respondents in the application and, if leave is granted, in the appeal, and
- (b) are entitled to be represented by counsel at the application and, if leave is granted, at the appeal.

**(6)** If a decision of the Municipal Government Board is appealed, the Board

- (a) is a respondent in the application and, if leave is granted, in the appeal, and
- (b) is entitled to be represented by counsel at the application and, if leave is granted, at the appeal.

RSA 2000 cM-26 s688;2007 c3 s5

#### **Decision on appeal**

**689(1)** On the hearing of the appeal,

- (a) no evidence other than the evidence that was submitted to the Municipal Government Board or the subdivision and development appeal board may be admitted, but the Court may draw any inferences
  - (i) that are not inconsistent with the facts expressly found by the Municipal Government Board or the subdivision and development appeal board, and
  - (ii) that are necessary for determining the question of law or the question of jurisdiction,

and

- (b) the Court may confirm, vary, reverse or cancel the decision.

**(2)** In the event that the Court cancels a decision, the Court must refer the matter back to the Municipal Government Board or the subdivision and development appeal board, and the relevant board must rehear the matter and deal with it in accordance with the opinion of or any direction given by the Court on the question of law or the question of jurisdiction.

**(3)** No member of the Municipal Government Board or a subdivision and development appeal board is liable to costs by reason or in respect of an application for leave to appeal or an appeal under this Act.

(4) If the Court finds that the only ground for appeal established is a defect in form or technical irregularity and that no substantial wrong or miscarriage of justice has occurred, the Court may deny the appeal, confirm the decision of the Municipal Government Board or a subdivision and development appeal board despite the defect and order that the decision takes effect from the time and on the terms that the Court considers proper.

1995 c24 s95

## **Division 11**

### **Intermunicipal Disputes**

#### **Intermunicipal disputes**

**690(1)** If a municipality is of the opinion that a statutory plan or amendment or a land use bylaw or amendment adopted by an adjacent municipality has or may have a detrimental effect on it and if it has given written notice of its concerns to the adjacent municipality prior to second reading of the bylaw, it may, if it is attempting or has attempted to use mediation to resolve the matter, appeal the matter to the Municipal Government Board by

- (a) filing a notice of appeal and statutory declaration described in subsection (2) with the Board, and
- (b) giving a copy of the notice of appeal and statutory declaration described in subsection (2) to the adjacent municipality

within 30 days after the passing of the bylaw to adopt or amend a statutory plan or land use bylaw.

(2) When appealing a matter to the Municipal Government Board, the municipality must state the reasons in the notice of appeal why a provision of the statutory plan or amendment or land use bylaw or amendment has a detrimental effect and provide a statutory declaration stating

- (a) the reasons why mediation was not possible,
- (b) that mediation was undertaken and the reasons why it was not successful, or
- (c) that mediation is ongoing and that the appeal is being filed to preserve the right of appeal.

(3) A municipality, on receipt of a notice of appeal and statutory declaration under subsection (1)(b), must, within 30 days, submit to the Municipal Government Board and the municipality that filed the notice of appeal a statutory declaration stating

- (a) the reasons why mediation was not possible, or

- (b) that mediation was undertaken and the reasons why it was not successful.

**(4)** When the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), the provision of the statutory plan or amendment or land use bylaw or amendment that is the subject of the appeal is deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date the Board receives the notice of appeal and statutory declaration under subsection (1)(a) until the date it makes a decision under subsection (5).

**(5)** If the Municipal Government Board receives a notice of appeal and statutory declaration under subsection (1)(a), it must, subject to any applicable ALSA regional plan, decide whether the provision of the statutory plan or amendment or land use bylaw or amendment is detrimental to the municipality that made the appeal and may

- (a) dismiss the appeal if it decides that the provision is not detrimental, or
- (b) order the adjacent municipality to amend or repeal the provision if it is of the opinion that the provision is detrimental.

**(6)** A provision with respect to which the Municipal Government Board has made a decision under subsection (5) is,

- (a) if the Board has decided that the provision is to be amended, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from the date of the decision until the date on which the plan or bylaw is amended in accordance with the decision, and
- (b) if the Board has decided that the provision is to be repealed, deemed to be of no effect and not to form part of the statutory plan or land use bylaw from and after the date of the decision.

**(6.1)** Any decision made by the Municipal Government Board under this section in respect of a statutory plan or amendment or a land use bylaw or amendment adopted by a municipality must be consistent with any growth plan approved under Part 17.1 pertaining to that municipality.

**(7)** Section 692 does not apply when a statutory plan or a land use bylaw is amended or repealed according to a decision of the Board under this section.



**(8)** The Municipal Government Board's decision under this section is binding, subject to the rights of either municipality to appeal under section 688.

RSA 2000 cM-26 s690;2009 cA-26.8 s83;2013 c17 s5

#### **Board hearing**

**691(1)** The Municipal Government Board, on receiving a notice of appeal and statutory declaration under section 690(1)(a), must

- (a) commence a hearing within 60 days after receiving the notice of appeal or a later time to which all parties agree, and
- (b) give a written decision within 30 days after concluding the hearing.

**(2)** The Municipal Government Board is not required to give notice to or hear from any person other than the municipality making the appeal, the municipality against whom the appeal is launched and the owner of the land that is the subject of the appeal.

1995 c24 s95;1999 c11 s45

## **Division 12 Bylaws, Regulations**

#### **Planning bylaws**

**692(1)** Before giving second reading to

- (a) a proposed bylaw to adopt an intermunicipal development plan,
- (b) a proposed bylaw to adopt a municipal development plan,
- (c) a proposed bylaw to adopt an area structure plan,
- (d) a proposed bylaw to adopt an area redevelopment plan,
- (e) a proposed land use bylaw, or
- (f) a proposed bylaw amending a statutory plan or land use bylaw referred to in clauses (a) to (e),

a council must hold a public hearing with respect to the proposed bylaw in accordance with section 230 after giving notice of it in accordance with section 606.

**(2)** Despite subsection (1), if a proposed development relates to more than one proposed bylaw referred to in subsection (1), the council may hold a single public hearing.

- (3)** Despite subsection (1), in the case of a public hearing for a proposed bylaw adopting or amending an intermunicipal development plan,
- (a) councils may hold a joint public hearing to which section 184 does not apply, and
  - (b) municipalities may act jointly to satisfy the advertising requirements of section 606.
- (4)** In the case of an amendment to a land use bylaw to change the district designation of a parcel of land, the municipality must, in addition to the requirements of subsection (1),
- (a) include in the notice described in section 606(2)
    - (i) the municipal address, if any, and the legal address of the parcel of land, and
    - (ii) a map showing the location of the parcel of land,
  - (b) give written notice containing the information described in clause (a) and in section 606(6) to the assessed owner of that parcel of land at the name and address shown on the assessment roll of the municipality, and
  - (c) give a written notice containing the information described in clause (a) and in section 606(6) to each owner of adjacent land at the name and address shown for each owner on the assessment roll of the municipality.
- (5)** If the land referred to in subsection (4)(c) is in another municipality, the written notice must be given to that municipality and to each owner of adjacent land at the name and address shown for each owner on the tax roll of that municipality.
- (6)** Despite subsection (1), a bylaw referred to in subsection (1) may be amended without giving notice or holding a public hearing if the amendment corrects clerical, technical, grammatical or typographical errors and does not materially affect the bylaw in principle or substance.
- (6.1)** Subsection (1)(f) does not apply in respect of a proposed bylaw amending a statutory plan or land use bylaw to specify the purposes of a community services reserve.
- (7)** In this section,
- (a) “adjacent land” means land that is contiguous to the parcel of land that is being redesignated and includes

- (i) land that would be contiguous if not for a highway, road, river or stream, and
  - (ii) any other land identified in the land use bylaw as adjacent land for the purpose of notifications under this section;
- (b) “owner” means the person shown as the owner of land on the assessment roll prepared under Part 9.
- (8)** If an ALSA regional plan requires a council to pass a bylaw referred to in this section, the council must
- (a) consider whether, in view of the requirement in the ALSA regional plan, consultation is necessary, desirable or beneficial, and
  - (b) decide whether or not to proceed with consultation.
- (9)** If a council decides under subsection (8) that consultation is neither necessary nor desirable or would not be beneficial, subsections (1) to (7) do not apply to the council in respect of the bylaw concerned.

RSA 2000 cM-26 s692;2008 c37 s9;2009 cA-26.8 s83

#### **Airport vicinity regulations**

- 693(1)** The Lieutenant Governor in Council may make regulations
- (a) establishing international airport vicinity protection areas surrounding the Calgary International Airport and the Edmonton International Airport;
  - (b) controlling, regulating or prohibiting any use and development of land within an international airport vicinity protection area.
- (2)** Unless the contrary is expressed in regulations made under subsection (1), those regulations
- (a) operate despite any statutory plan, land use bylaw or other regulations under this Part, and
  - (b) are binding on any subdivision authority, development authority and subdivision and development appeal board and the Municipal Government Board.
- (3)** If a municipality is affected by a regulation under subsection (1), the municipality must amend the statutory plan relating to that area and its land use bylaw to conform with the regulation.

(4) Section 692 does not apply to an amendment pursuant to subsection (3).

1995 c24 s95

#### **Development in floodways**

**693.1(1)** The Lieutenant Governor in Council may make regulations

- (a) controlling, regulating or prohibiting any use or development of land that is located in a floodway within a municipal authority, including, without limitation, regulations specifying the types of developments that are authorized in a floodway;
- (b) exempting a municipal authority or class of municipal authorities from the application of all or part of this section or the regulations made under this subsection, or both;
- (c) modifying or suspending the application or operation of any provision of this Act for the purposes of giving effect to this section;
- (d) defining, or respecting the meaning of, “floodway” for the purposes of this section and the regulations made under this subsection.

(2) Unless the contrary is expressed in regulations made under subsection (1), those regulations

- (a) operate despite any statutory plan, land use bylaw or other regulations under this Part, and
- (b) are binding on any subdivision authority, development authority and subdivision and development appeal board and the Municipal Government Board.

(3) If a municipal authority is affected by a regulation made under subsection (1), the municipal authority must amend any relevant statutory plan and its land use bylaw to conform with the regulation.

(4) Section 692 does not apply to an amendment pursuant to subsection (3).

2013 c21 s2

#### **Regulations**

**694(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting applications for the subdivision and development of land;

- (b) respecting subdivision and development standards and requirements;
  - (c) respecting the information to be contained in a subdivision authority's notice of a decision;
  - (d) respecting the additional municipal reserve, school reserve or municipal and school reserve that a subdivision authority may require to be provided under this Part;
  - (e) respecting the records to be kept by a subdivision authority and a development authority;
  - (f) prescribing the conditions that a subdivision authority and a development authority are permitted to impose when granting subdivision or development approval in addition to those conditions permitted to be imposed under this Part;
  - (g) conferring or imposing, with or without conditions, any power or duty under the regulations on the Minister, the Municipal Government Board, a subdivision authority or a development authority;
  - (h) setting out distances for the purpose of section 678(2)(a);
  - (i) authorizing the Minister or the Minister's delegate to order, either generally or specifically, that all or part of the regulations under this subsection do not apply to all or part of Alberta.
- (2)** A regulation under subsection (1)
- (a) may be called a subdivision and development regulation,
  - (b) may apply generally or specifically in Alberta, and
  - (c) operates despite any other regulation or bylaw pursuant to this Part.
- (3)** The *Regulations Act* does not apply to orders under subsection (1)(i).
- (4)** The Lieutenant Governor in Council may make regulations
- (a) governing the maximum amount that a municipality may establish or impose and collect as a redevelopment levy or an off-site levy, either generally or specifically;
  - (b) governing the principles and criteria that must be applied by a municipality when establishing an off-site levy.

**(5)** The Lieutenant Governor in Council may make regulations directing a municipality, with or without conditions, to amend its statutory plans and land use bylaw.

**(5.1)** If the Natural Resources Conservation Board, Energy Resources Conservation Board, Alberta Energy Regulator or Alberta Utilities Commission grants a licence, permit, approval or other authorization that refers to environmental or physical limitations with respect to the development of land, and regulations are made under section 618(4) with respect to the development of that land, the Lieutenant Governor in Council may make regulations

- (a) requiring the developer to apply to the Registrar to register a caveat against the land subject to the limitation referred to in the licence, permit, approval or other authorization, and
- (b) respecting the contents of the caveat.

**(5.2)** When a caveat is presented for registration under subsection (5.1), the Registrar must endorse a memorandum referring to the licence, permit, approval or other authorization on any certificate of title for land to which the limitations described in subsection (5.1) apply.

**(5.3)** A caveat that is registered pursuant to a regulation under subsection (5.1)(a) runs with the land.

**(5.4)** Sections 137 and 138 of the *Land Titles Act* do not apply to a caveat referred to in subsections (5.1), (5.2), (5.3) and (5.5).

**(5.5)** Section 8 of the *Canmore Undermining Review Regulation* (AR 114/97) is validated and is deemed to have been made under this section.

**(5.6)** The Lieutenant Governor in Council may make regulations respecting the exemption of The Town of Canmore, its councillors, officers and employees and volunteers performing duties under the direction of The Town of Canmore or performing duties for organizations established by The Town of Canmore from liability with respect to the development of designated land, as defined in the *Canmore Undermining Review Regulation* (AR 114/97), by persons other than The Town of Canmore, its councillors, officers and employees and volunteers performing duties under the direction of The Town of Canmore or performing duties for organizations established by The Town of Canmore.

**(5.7)** The *Canmore Undermining Exemption from Liability Regulation* (AR 113/97) is validated, is not repealed in accordance

with section 603(2) and is deemed to have been made under this section.

- (6) The Lieutenant Governor in Council may make regulations
- (a) by which municipalities may define land in the vicinity of an airport for purposes of this section,
  - (b) prescribing how municipalities are to manage the use and development of land in the vicinity of an airport, and
  - (c) respecting the control, use and development of land in the vicinity of an airport.
- (7) A regulation under subsection (6)
- (a) may be called a general airport vicinity protection area regulation, and
  - (b) may apply generally or specifically in Alberta.

RSA 2000 cM-26 s694;2003 c43 s4; 2007 cA-37.2 s82(17);  
2012 cR-17.3 s95

### **Division 13 Transitional**

**695 and 696** Repealed by Revision.

#### **Zoning caveat**

**697(1)** On September 1, 1995 a zoning caveat prepared and signed by the Director of Town and Rural Planning or the Provincial Planning Director and registered in a land titles office under a former Act ceases to have effect.

(2) On and after September 1, 1995, the owner of a parcel of land that is affected by a caveat referred to in subsection (1) may apply to the Registrar to endorse the certificate of title with a memorandum cancelling the registration of the zoning caveat.

(3) On receipt of an application under subsection (2) and on being satisfied that the caveat is a zoning caveat, the Registrar must cancel the registration of the caveat.

AR 49/2002 s6;2002 c30 s23

**698 to 708** Repealed by Revision.

## Part 17.1 Growth Management Boards

### Interpretation

**708.01(1)** In this Part,

- (a) “growth management board” means a growth management board established by regulation under section 708.02;
- (b) “growth plan” means an integrated growth management plan, including any amendments to that plan, approved by the Minister under section 708.1;
- (c) “growth region” means all or part of the land lying within the boundaries of the participating municipalities of a growth management board that is designated by regulation under section 708.02 as the growth region for that growth management board;
- (d) “municipal agreement” means an agreement entered into by a participating municipality;
- (e) “participating municipality” means a municipality that is designated by regulation under section 708.02 as a member of the growth management board;
- (f) “representative” means a person appointed by a participating municipality under section 708.04 to represent the participating municipality on a growth management board;
- (g) “statutory plan” means
  - (i) a statutory plan as defined in section 616(dd), or
  - (ii) an amendment to a statutory plan referred to in subclause (i).

**(2)** A reference in any other Part of this Act to a resolution or bylaw does not include a resolution passed or bylaw made by a growth management board.

2013 c17 s6

### Purpose

**708.011** The purpose of this Part is to enable 2 or more municipalities to initiate, on a voluntary basis, the establishment of a growth management board to provide for integrated and strategic planning for future growth in those municipalities.

2013 c17 s6



## Division 1 Establishment and Operation of Growth Management Boards

### Establishing growth management board

**708.02(1)** The Lieutenant Governor in Council, on the recommendation of the Minister on the request of 2 or more municipalities, may establish a growth management board in respect of those municipalities by regulation.

**(2)** The regulation establishing a growth management board must

- (a) specify the name of the growth management board,
- (b) designate the municipalities that are members of the growth management board, and
- (c) designate all or part of the land lying within the boundaries of the participating municipalities as the growth region for the growth management board.

**(3)** The regulation establishing a growth management board may deal with one or more of the following matters:

- (a) the appointment of persons to represent the participating municipalities;
- (b) the appointment of the chair of the growth management board, including, if necessary, the appointment of an interim chair;
- (c) the voting rights of the participating municipalities;
- (d) the mandate of the growth management board;
- (e) subject to this Part, the powers, duties and functions of
  - (i) the growth management board, and
  - (ii) the representatives on the growth management board;
- (f) requiring the growth management board to prepare a growth plan for the growth region;
- (g) the objectives of a growth plan;
- (h) the contents of a growth plan;
- (i) the timelines for completing a growth plan;
- (j) the form of a growth plan;

- (k) the effect of a growth plan;
- (l) the process for making amendments to a growth plan;
- (m) the application of section 708.14 in respect of a participating municipality;
- (n) any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Part.

2013 c17 s6

**Corporation**

**708.03(1)** A growth management board is a corporation consisting of

- (a) the participating municipalities, as represented by the representatives, and
- (b) the persons appointed by the Lieutenant Governor in Council under subsection (2).

**(2)** The Lieutenant Governor in Council may appoint one or more persons to a growth management board to represent the Government of Alberta, but those persons do not have voting rights.

2013 c17 s6

**Appointment of representative**

**708.04** Each participating municipality must, in accordance with the regulation establishing the growth management board of which the participating municipality is a member, appoint a person to represent the participating municipality on the growth management board.

2013 c17 s6

**Powers and duties of growth management board**

**708.05(1)** Except as provided for in the regulations under subsection (3), Divisions 3 and 4 of Part 15.1 and any regulations made under those Divisions apply with any necessary modifications in respect of a growth management board as if it were a regional services commission.

**(2)** Except as provided for in the regulations under subsection (3), Divisions 3 and 4 of Part 15.1 and any regulations made under those Divisions apply with any necessary modifications in respect of the representatives on a growth management board as if those representatives were directors of a regional services commission.

**(3)** The Minister may make regulations modifying any provision of Division 3 or 4 of Part 15.1 for the purpose of applying the

provision to a growth management board or to the representatives on a growth management board.

2013 c17 s6

#### **Compliance with ALSA regional plans**

**708.06** In carrying out its functions and in exercising its jurisdiction under this Part and other enactments, a growth management board must act in accordance with any applicable ALSA regional plans.

2013 c17 s6

#### **Delegation**

**708.07(1)** Subject to subsection (2), a growth management board may delegate any of its powers, duties or functions under this Part or any other enactment to a committee, official or employee of the growth management board.

**(2)** A growth management board may not delegate

- (a) the power to make bylaws;
- (b) the power to borrow money;
- (c) the power to adopt budgets;
- (d) the power to approve financial statements;
- (e) the power to appoint an auditor;
- (f) the power to recommend the approval of a growth plan.

2013 c17 s6

#### **Bylaws**

**708.08(1)** A growth management board may make bylaws respecting its conduct and affairs, including, without limitation, rules and procedures for dealing with matters before the growth management board.

**(2)** Unless the Minister directs otherwise, a bylaw made under subsection (1) does not come into force until it has been approved by the Minister.

**(3)** The *Regulations Act* does not apply to a bylaw made under subsection (1).

2013 c17 s6

#### **Annual report of growth management board**

**708.09(1)** A growth management board must submit to the Minister before May 1 of each year a report summarizing its activities during the preceding calendar year.

(2) On receiving the report under subsection (1), the Minister must lay a copy of it before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

2013 c17 s6

## **Division 2 Approval and Effective Date of Growth Plan**

### **Approval of growth plan**

**708.1(1)** On receiving a proposed growth plan from a growth management board, the Minister may by order approve the growth plan or reject it.

(2) A growth plan is not a regulation within the meaning of the *Regulations Act*.

2013 c17 s6

### **Effective date of growth plan**

**708.11** A growth plan takes effect on the date specified by the Minister.

2013 c17 s6

## **Division 3 Effect of Growth Plan**

### **Actions must conform with growth plan**

**708.12(1)** Despite any other enactment, no participating municipality shall take any of the following actions that conflict or are inconsistent with a growth plan:

- (a) undertake a public work, improvement, structure or other thing;
- (b) adopt a statutory plan;
- (c) make a bylaw or pass a resolution;
- (d) enter into a municipal agreement.

(2) If a growth management board finds that a participating municipality has taken an action described in subsection (1)(a) that conflicts or is inconsistent with a growth plan, the growth management board may, by written notice to the participating municipality, order the participating municipality to stop the action within the time set out in the notice.

(3) If a participating municipality fails or refuses to comply with a notice under subsection (2), the growth management board may

apply to the Court of Queen's Bench for an injunction or other order.

**(4)** The Court of Queen's Bench may grant or refuse the injunction or other order or may make any order that in the opinion of the Court is just in the circumstances.

2013 c17 s6

#### **Plan prevails**

**708.13** Despite any other enactment, but subject to section 708.14(5), a growth plan prevails in the event of a conflict or inconsistency between the growth plan and a statutory plan, bylaw, resolution or municipal agreement of a participating municipality.

2013 c17 s6

#### **Conformity with growth plan**

**708.14(1)** The council of a participating municipality must amend every statutory plan and bylaw as necessary to conform with a growth plan no later than the date specified by the growth management board.

**(2)** If the council of a participating municipality fails to amend a statutory plan or bylaw in accordance with subsection (1), the statutory plan or bylaw is deemed to be invalid to the extent that it conflicts or is inconsistent with a growth plan.

**(3)** The Minister may, in respect of a municipal agreement entered into by a participating municipality that conflicts or is inconsistent with a growth plan, require the council of the participating municipality, to the extent possible under the terms of the municipal agreement,

(a) to amend the municipal agreement so that it conforms to the growth plan, or

(b) to terminate the municipal agreement.

**(4)** If the council of a participating municipality fails to amend or terminate a municipal agreement when required to do so by the Minister under subsection (3), the municipal agreement is deemed to be invalid to the extent that it conflicts or is inconsistent with the growth plan.

**(5)** Except as otherwise provided in the regulation establishing the growth management board of which the participating municipality is a member, section 708.13 and this section apply to statutory plans adopted, bylaws made, resolutions passed and municipal agreements entered into before or after the coming into force of that regulation.

2013 c17 s6

**Conflict with ALSA regional plans**

**708.15** In the event of a conflict or inconsistency between a growth plan and an ALSA regional plan, the ALSA regional plan prevails to the extent of the conflict or inconsistency.

2013 c17 s6

**Division 4  
General Matters****Effect of regulation on existing statutory plans**

**708.16** For greater certainty, except as provided in this Part and Part 17, all statutory plans of a participating municipality that are in effect on the coming into force of the regulation establishing the growth management board of which the participating municipality is a member remain in full force and effect.

2013 c17 s6

**Information must be provided**

**708.17(1)** A participating municipality must, when required in writing by the growth management board to do so, provide the growth management board with information about the participating municipality that the growth management board requires.

**(2)** A participating municipality that contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$10 000.

**(3)** This section does not apply to information acquired by a participating municipality that is subject to any type of legal privilege, including solicitor-client privilege.

2013 c17 s6

**Matters before the Municipal Government Board**

**708.18(1)** If

- (a) a matter relating to land within a growth region is appealed to the Municipal Government Board, or
- (b) the Municipal Government Board is considering an application for an annexation of land involving 2 or more participating municipalities,

the Minister may by order direct the Municipal Government Board to defer its consideration of the matter or application.

**(2)** When the Minister makes an order under subsection (1), all steps in the appeal or application, as the case may be, are stayed as of the date of the order until the Minister gives notice to the Municipal Government Board that the appeal or application may be continued.

**(3)** This section applies to an appeal or application commenced after the coming into force of the regulation establishing the growth management board

- (a) in respect of which the land referred to in subsection (1)(a) is part of the growth region, or
- (b) of which the participating municipalities referred to in subsection (1)(b) are members.

2013 c17 s6

**Limitation of actions**

**708.19** No cause of action arises as a result of

- (a) the enactment of this Part,
- (b) the making of a regulation, bylaw or order under this Part, or
- (c) anything done or omitted to be done in accordance with this Part or a regulation, bylaw or order made under this Part.

2013 c17 s6

**No remedy**

**708.2** No costs, compensation or damages are owing or payable to any person, and no remedy, including in contract, restitution or trust, is available to any person in connection with anything referred to in section 708.19.

2013 c17 s6

**Proceedings barred**

**708.21** No proceedings, including any proceedings in contract, restitution or trust, that are based on anything referred to in section 708.19, may be brought or maintained against any person.

2013 c17 s6

**No expropriation or injurious affection**

**708.22** Nothing done or omitted to be done in accordance with this Part or a regulation, bylaw or order made under this Part constitutes an expropriation or injurious affection for the purposes of the *Expropriation Act* or otherwise.

2013 c17 s6

**Appeal or dispute resolution mechanism**

**708.23(1)** A growth management board must at its inception establish by bylaw an appeal mechanism or dispute resolution mechanism, or both, for the purposes of resolving disputes arising from actions taken or decisions made by the growth management board.

(2) Section 708.08(2) and (3) apply to a bylaw made under this section as if the bylaw were made under that section.

2013 c17 s6

#### **Ministerial orders**

**708.24(1)** In addition to any other orders that the Minister may make under this Part, the Minister may make any one or more of the following orders:

- (a) an order providing for transitional matters related to the coming into force of this Part;
- (b) an order respecting the requisition of operating and capital costs of a growth management board;
- (c) subject to the regulations, an order respecting the management, duties and functions of a growth management board;
- (d) an order respecting the records to be kept by a growth management board and the manner in which they are to be kept and respecting which reports are to be submitted to the Minister;
- (e) an order providing for any other matter that the Minister considers necessary for carrying out the purposes of this Part.

(2) In addition to the orders the Minister may make under subsection (1), the Minister may by order take any action that a growth management board may or must take under this Part or a regulation under this Part.

(3) If there is a conflict or inconsistency between an order made by the Minister under subsection (2) and an action taken by a growth management board, the Minister's order prevails to the extent of the conflict or inconsistency.

(4) The *Regulations Act* does not apply to an order made under subsection (1)(c) or (d) or (2).

2013 c17 s6

#### **Transitional**

**708.25(1)** The *Capital Region Board Regulation* (AR 38/2012), in addition to being declared valid under section 603.1, is deemed, on the coming into force of this section, to have been made under this Part.

(2) If there is a conflict or inconsistency between a provision of the *Capital Region Board Regulation* (AR 38/2012) as it read on the date of the coming into force of this section and a provision of this



Part, the *Capital Region Board Regulation* (AR 38/2012) prevails to the extent of the conflict or inconsistency.

(3) For greater certainty but without limiting the generality of subsection (2), sections 708.011, 708.02(1) and 708.23 do not apply to the *Capital Region Board Regulation* (AR 38/2012).

2013 c17 s6

## Part 18 Transitional Provisions

**709** Repealed by Revision.

### Transitional regulations

**710(1)** The Minister may make regulations

- (a) respecting the conversion to this Act of anything from the former Acts or from any other Act repealed by this Act;
- (b) to deal with any difficulty or impossibility resulting from this Act or the transition to this Act from the former Acts or from any other Act repealed by this Act.

(2) In this section, “former Acts” means

- (a) the *Assessment Appeal Board Act*, RSA 1980 cA-46;
- (b) the *County Act*, RSA 1980 cC-27;
- (c) the *Improvement Districts Act*, RSA 1980 cI-1;
- (d) the *Municipal Government Act*, RSA 1980 cM-26;
- (e) the *Municipal Taxation Act*, RSA 1980 cM-31;
- (f) the *Municipalities Assessment and Equalization Act*, RSA 1980 cM-32.

1994 cM-26.1 s617;1995 c24 ss94,96

**711 to 740** OBNR – RSA.



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