

Alberta Development Officers Association



Municipal Government Act Amendments affecting

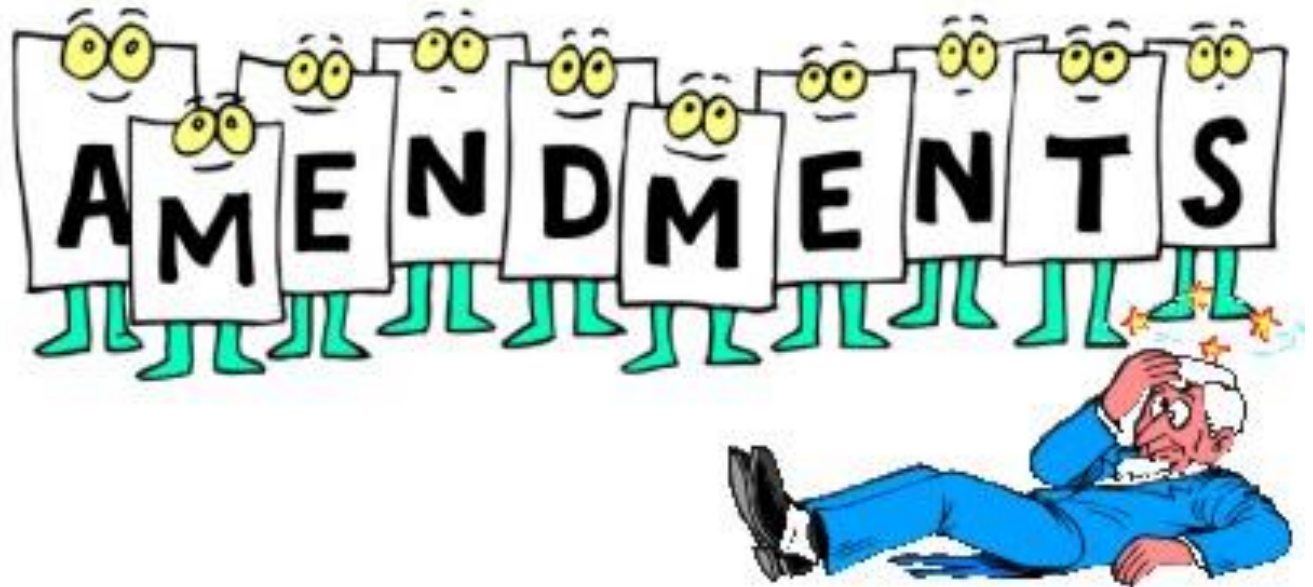
Part 17

Gwendolyn Stewart-Palmer

September 28, 2017

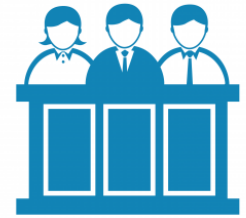
Topics

- Municipal Government Amendment Act
- Modernized Municipal Government Act
- An Act to Strengthen Municipal Government
- Draft Regulations



MUNICIPAL GOVERNMENT AMENDMENT ACT

MGA Amendment Act



SDAB Clerks and Board Members

- SDAB Clerks to be designated officers (s. 627.1)
- SDAB Clerks and SDAB members must complete training before participating in hearing (s. 627.2 – 627.3)
- Maximum 1 councillor per panel
- Draft Regulations – 6 month transitional period

Consistency of Plans

- IDP and MDP must be consistent (s. 632(3))
- ASP must be consistent with IDP and MDP (s. 633(3))
- ARP must be consistent with IDP and MDP (s. 634(3))
- IDP prevails over other statutory plans in event of conflict/inconsistency and MDP over other statutory plans (s. 638)

MGA Amendment Act



Offsite Levies (in force)

- Clarification – 4 levies
- Levies collectable over time (s. 648(4))
- Consequential amendments to s. 649 and 650

MGA Amendment Act

Subdivisions

- Clarification amendments to s. 654
- Developer may be required to install utilities, on or off site (s. 654(b)(iii))
- New s. 654(4) – deemed validity

MGA Amendment Act

Developments

- Extension agreements must be in writing (s. 681(1)(b))
- Former s. 641(4) moved to s. 685(4) (no appeal on direct control permits)
- Clarification amendments to s. 687(3)(a.1) to address potential inconsistencies between statutory plans

MGA Amendment Act

Intermunicipal Disputes

- Preconditions for appeal clarified adding necessity to attempt mediation after 2nd reading (s. 690(1))
- Clarifications under s. 690(3) –(5) regarding timing for updates on mediation [Note: Responding Municipality obligation only]

MGA Amendment Act



Growth Management Boards

- Provisions for meetings of GMBs (s. 708.041)
- GMBs to provide annual report to Minister within 120 days of fiscal year end (s. 708(09))



It's time to modernize!



MODERNIZED MUNICIPAL GOVERNMENT ACT

MMGA

s. 618.2

No bylaw is binding in respect of a matter governed by this Part unless that bylaw is passed in accordance with this Part.

- Unclear application
- Is this giving guidance to Courts?
- Does it add to the powers given to SDABs?

MMGA - SDABs

- Express authorization of “panels”
(s. 628(2))
- Immunity for good faith decisions
(s. 628.1))

MMGA- IDPs

- IDPS mandatory for contiguous municipalities (s. 631)
- Increased number of mandatory considerations including transportation systems, intermunicipal infrastructure and intermunicipal programs (s. 632(2))
- 5 years to adopt IDP (s. 632(3))

MMGA - MDPs

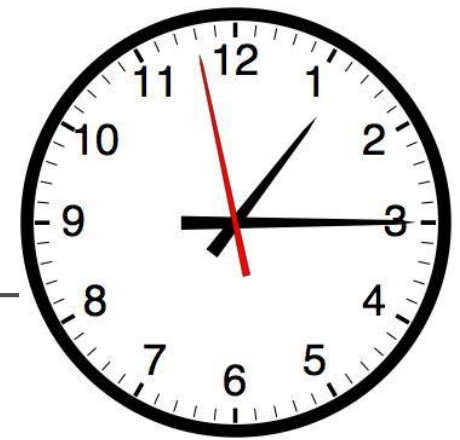
- MDPs mandatory (s. 632(1))
- 3 years to adopt MDP (s. 632(2.1))

MMGA - Policies



- Municipalities must establish and publish list of policies (s. 638.2)
- Development Authority, Subdivision Authority, SDABs and MGB cannot have regard to a policy unless policy is in list and published (s. 638.2(3))
- Applies as of January 1, 2019 (s. 638.2(4))

MMGA



Time periods for approvals

- Cities and municipalities with $\geq 15,000$ people may change time to approve development permit application or subdivision applications (s. 640.1)
- MDs, towns and villages not given this power

MMGA – Offsite Levies

Expanded off-site levy powers

- Levies can be imposed for
 - Community recreation facilities
 - Fire hall facilities
 - Police station facilities
 - Libraries (s. 648(2.1))



- Cannot be imposed if levy previously imposed for same purpose

MMGA – Offsite Levies

- Appeal from new levy to MGB on
 - Purpose not benefitting to required extent
 - Regulation principles and criteria not complied with
 - Levy not for intended purposes under (2.1)
 - Levy calculation incorrect
 - Levy previously imposed and collected

MMGA – Offsite Levies

- MGB can
 - dismiss appeal,
 - order municipality to repeal or amend bylaw
 - Repeal or amend bylaw
 - Correct calculation or levy or direct municipality to correct calculation

Offsite Levies Regulation

- Modification of existing regulations
- Includes new provisions dealing with new infrastructure types
- New provisions dealing with Off-site Levy Bylaw appeals to MGB

MMGA- Subdivision Applications

s. 653.1

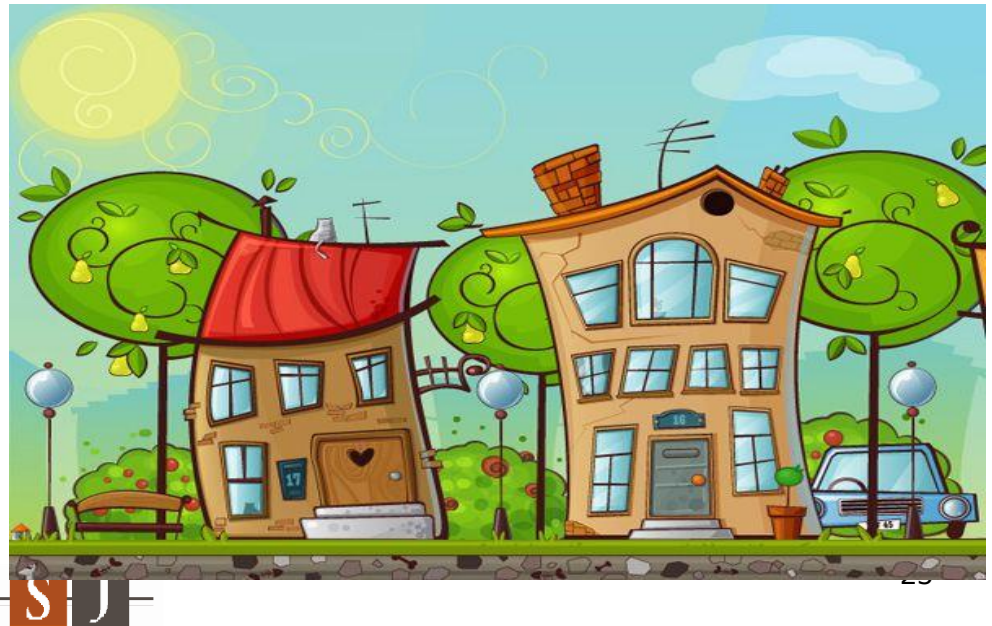
- SA has 20 days to determine if application complete
- Can extend time by agreement
- Deemed complete if no decision
- SA must issue acknowledgement of completeness or incompleteness
- Failure to provide information = deemed refusal



MMGA -Inclusionary Housing

s. 650(1)(f) and 655(1)(b)(vii)

- On subdivision and development, developer may be required to provide for inclusionary housing in accordance with regulations



MMGA Conservation Reserve (CR) Environmental Reserve (ER)

**s. 666.1, 664, 664.1, 664.2, 665, 666,
674.1**

- Dedication of CR for environmentally significant land not meeting ER criteria
- No sale/disposition of CR
- CR Market value compensation with disputes to Land Compensation Board
- Clarification of ER language
- Agreements regarding ER

MMGA- Subdivision appeals

S. 678, 679, 680

- Deemed date of receipt of mailed SA decision is now 7 days (formerly 5)
- No notice to municipality, school board, government departments or neighbours for deemed SA refusal
- SDAB must comply with inclusionary housing LUB, regulation provisions, and for deemed refusal, determine if app. complete

MMGA- Developments

➤ **S. 683.1**

- DA has 20 days to determine if application complete
- Can extend time by agreement
- Deemed complete if no decision
- DA must issue acknowledgement of completeness or incompleteness
- Failure to provide information = deemed refusal

MMGA – Development Appeals

S. 684, 685, 686, 687(3)

- Clarification of language regarding deemed refusals
- Deemed refusal added to s. 685(3)
- Clarification of date of notification – 7 days from mailing (making appeal time 21 days?)
- SDAB must comply with inclusionary housing LUB, regulation provisions

MMGA – Growth Management Boards

S. 708.011, 708.02

- Voluntary GMB, except Edmonton and Calgary
- CRB is deemed GMB for Edmonton area

MMGA – Intermunicipal collaboration



MMGA



Intermunicipal Collaboration

Part 17.2

➤ Purpose

- Integrated and strategic planning, delivery and funding of intermunicipal services
- Efficient stewardship of scarce resources in providing local services
- Contribute funding to services that benefit residents

MMGA – ICF Agreement

- Required for municipalities with common boundaries
- Both internal and external
- Must be completed within 2 years section comes into force

MMGA – ICF Agreement

- Must identify current source of services and best future provider
- Must outline delivery, funding, discontinuance, timeframe for implementation, dispute resolution
- Must identify all services, including transportation, water, sewer, solid waste, emergency, recreation

MMGA – ICF Agreement

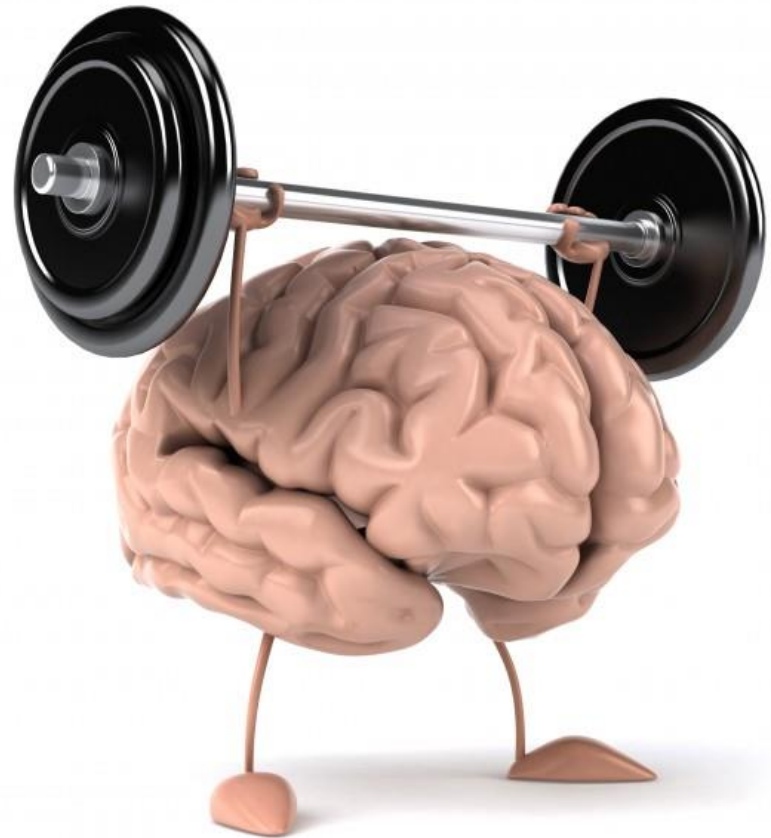
- Must append IDP to it
- Must review every 5 years
- Must file with Minister within 90 days of creation
- Arbitrator appointed if no agreement
- Arbitrator creates ICF
- Obligations of good faith negotiation
- Minister may sanction municipalities

MMGA - ICF

- Sanctions include
 - Suspension or removal of bylaw making power
 - Withholding money payable to municipality
 - Repealing, etc. municipal policies
 - Suspending authority of SA, DA
- Part 17.2 paramount over Parts 1, 2, 3, 5, 6, 7, 8 and 17 if conflict or inconsistency

ICF Regulation

- Deals with “good faith”
- Establishes arbitration process for framework
- Model dispute resolution provisions
- Judicial review provisions



AN ACT TO STRENGTHEN MUNICIPAL GOVERNMENT

ASMG

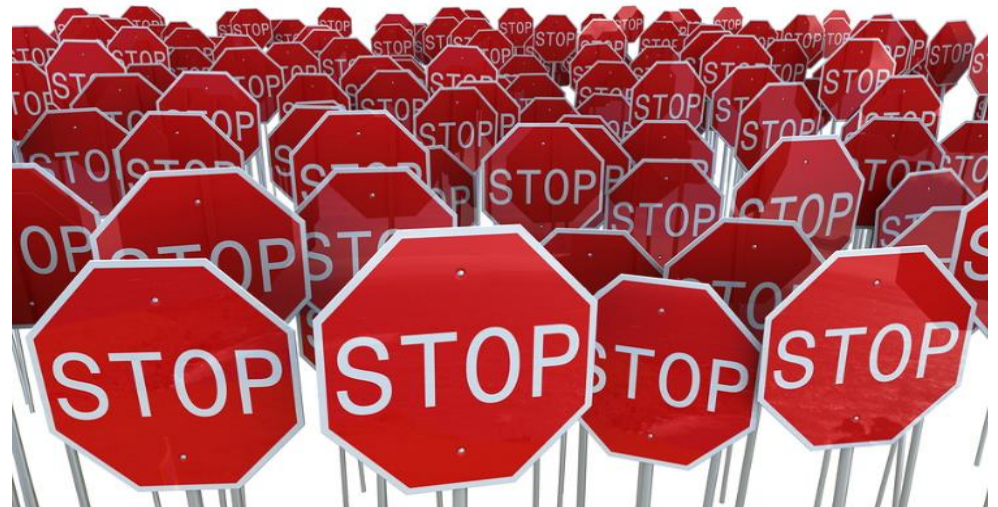
S. 636

- At ASP stage, Transportation Minister to be notified where plan area is within 1.6 km of provincial highway
- For MDP and ASP, notify adjacent Indian band or Metis settlement

ASMG

S. 645(2.1)

- Stop Orders must specify date order made and be sent to recipient on same day decision made



ASMG - Offsite Levies... again

- No offsite levies on school land(s. 648(1.1))
- Off-site levies possible for infrastructure to connect municipal roads to provincial highways (s. 648(2)(c.2))
- Amends MMGA to add s. 648(9) validating fees
- Adds s. 648.01 – Intermunicipal off-site levies

ASMG – Joint use and Planning Agreements

- Within 3 years, municipality and school board to enter joint use and planning agreement (s. 670.1)
- Agreement to include
 - Planning, development and use of school site on MR, SR and MR/SR
 - Transfers under s. 672 and 673
 - Disposal and servicing of school sites
 - Use of facilities
 - Collaboration, dispute resolution, review time

ASMG – Future SR Reserves

- Municipality may pass bylaw for future land assembly area for school reserve
- Bylaw must estimate costs to buy land
- If land within area applies for subdivision, SA may oblige payment of funds (not exceeding 5% of value)
- Funds to be used only for school purpose

ASMG – Future SR Reserves

- SA may require more land than under s. 666(2) or 668 for MR, SR or MR/SR
- If so, municipality must pay compensation within 30 days to owner for amount exceeding maximum MR, SR or MR/SR

ASMG – Development Appeals

- Appeal time 21 days from decision date or deemed refusal (s. 686(1))
(is it 28 days? See MMGA s. 686 on notice)



ASMG – Amendments to MMGA

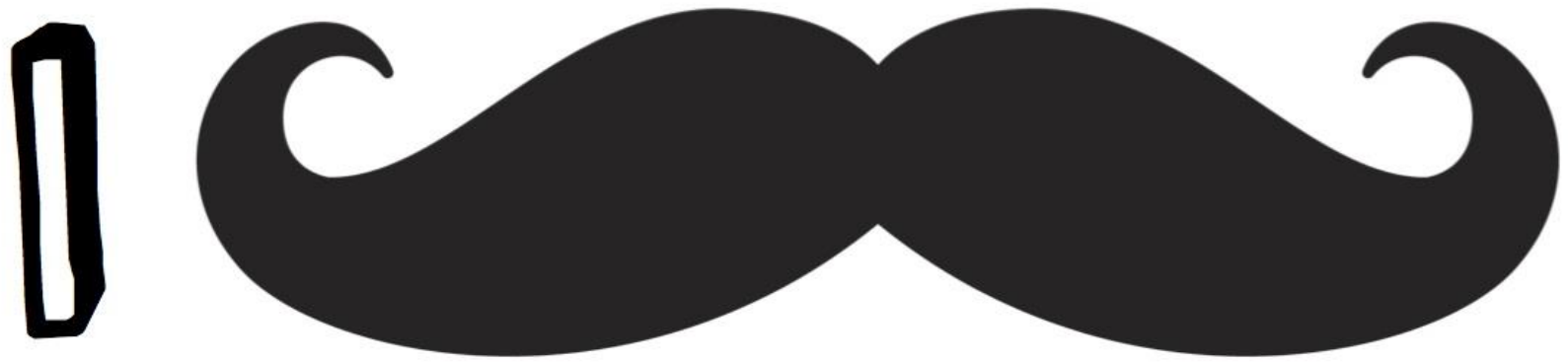
- S. 632(2.1) – 3 years to pass MDP
- S. 674.1 replaced and 674.2 added clarifying municipal obligations for conservation reserve and removal of CR designation
- S. 708.321 added permitting municipalities to invite Indian band or Metis settlement to participate in ICF



REGULATIONS

Other Regulations

- Subdivision and Development Regulations – updating and clarification, eg. Food establishment, body of water, separation distances for waste sites
- Community Aggregate Payment Levy Reg – max. levy = \$0.40/tonne



YOU A QUESTION



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