

MGA Review Discussion Paper

Municipal Administration

This technical document is part of a series of draft discussion papers created by Municipal Affairs staff and stakeholders to prepare for the Municipal Government Act Review. It does not reflect existing or potential Government of Alberta policy directions. This document is the result of a careful review of what is currently included in the Municipal Government Act (MGA) and regulations, definitions of terms and processes, changes requested by stakeholders over the last 18 years, some highlights from other jurisdictions, and identification of potential topics for discussion during the MGA Review. This information will be used to prepare consultation materials as the MGA Review proceeds.

These discussion papers have been reviewed and approved by the MGA Stakeholder Advisory Committee, comprised of representatives from major stakeholder organizations: Alberta Association of Municipal and Counties, Alberta Association of Urban Municipalities, Alberta Rural Municipal Administrators Association, Alberta Chambers of Commerce, City of Calgary, City of Edmonton, and Local Government Association of Alberta.

The Government of Alberta is asking all Albertans to directly contribute to the MGA Review during online consultation in late 2013 and consultation sessions throughout Alberta in early 2014. This technical document is not intended for gathering stakeholder feedback, but to generate thought and discussion to prepare for the upcoming consultation. Public engagement materials will be available in early 2014. To learn more about how you can join the discussion on how we can build better communities, please visit mqareview.alberta.ca/get-involved.

Preamble

The *Municipal Government Act (MGA)* provides the legislative framework to guide the operations of municipalities in Alberta. The current *MGA* empowers municipalities with the authority and flexibility to provide services in the best interests of the community. The *MGA* Review will proceed along three major themes: *governance*; *assessment and taxation*; and *planning and development*.

This paper is one of 12 discussion papers exploring aspects related to the *governance* theme. It focuses on municipal administration's duties as provided for through the *MGA*. The objective of each discussion papers is to

- 1) Outline the existing legislation,
- 2) Identify issues with specific aspects based on stakeholder requests
- 3) Look at how other jurisdictions are approaching these issues; and
- 4) Pose questions to help formulate future analysis of, as well as public and stakeholder engagement on the *MGA*.

Below is a list of the papers that relate to the governance theme.

- Municipal Powers
- Provincial Powers
- Municipal Structures
- Municipal Governance
- Municipal Administration
- Financial Administration
- Liability and Risk Management
- Service Provisions
- Controlled Corporations
- Regional Service Commissions
- Compliance and Accountability
- Special Areas and Improvement Districts

Municipal Administration

The municipal administration is the authority that implements a municipal council's decisions and attends to the provincially legislated administrative functions and duties of a municipality.¹ An important element in the current *MGA* is the distinction between the powers, duties and functions of the municipal council and the municipal administration. A municipal council is explicitly not to perform a power, duty or function of the administration. This separation of municipal law-making from municipal administration is a key value which helps define administrative roles and responsibilities.

Every council must establish, by bylaw, a position of Chief Administrative Officer (CAO) and designate one or more individuals with the responsibilities to carry out the powers, duties and functions of the CAO. The CAO is the only employee a municipality is required to have under the legislation. The *MGA* provides conditions and procedures for the appointment, suspension and revocation of an individual to the CAO position. The CAO may delegate responsibilities to a designated officer or an employee and a council may establish or revoke positions to carry out those designated responsibilities.

The CAO's main responsibilities are identified as:

- being the administrative head of the municipality;
- ensuring that the policies and programs of the municipality are implemented;
- advising and informing council on the operation and affairs of the municipality; and
- performing the duties, functions and powers assigned by the *MGA*, other statutes, and council.

The CAO and designated officers must perform a broad set of administrative tasks to realize these responsibilities. These tasks span from council minute-taking and managing municipal finances, to advising council of its legislative responsibilities under the *MGA*. Other responsibilities include making public information on the salaries of councillors, the CAO and the designated officers of the municipality; determining a petition's adequacy; and certifying that a bylaw, resolution, meeting or public hearing was advertised appropriately.

This broad set of responsibilities and tasks are integral to a municipality's management. How they are delegated among staff in the municipal administration can influence the efficiency of the municipality's daily operations and affect its long-term viability.

¹ The scope of "Municipal Administration" closely aligns with other discussion topics being explored in the *MGA* Review. Discussions presented in this paper are associated with topics of municipal governance, municipal finance, and Special Areas and improvement districts, all of which are discussed in other *MGA* Review discussion papers.

Discussion Points



Below are some identified discussion topics and questions based on a review of requested amendments, cross jurisdictional research and issues raised by stakeholders.

The requested amendments discussed below draw upon an inventory of requests received by the Province over the past 18 years. It is important to note these requests:

- i) do not include all the requests Municipal Affairs has received in the past 18 years;
- ii) do not necessarily represent the views of most Albertans;
- iii) do not necessarily apply to all municipalities; and
- iv) are categorized by policy topic, and have not been evaluated or ranked by number of requests received.

1. Administrative Capacity

Background

In the past two decades, municipal administrative tasks have broadened to accommodate changing municipal programs and services, technological advances in service delivery and office administration, and a broadening of skills required within a municipal administration. This can lead to challenges for municipalities in acquiring and maintaining adequate administration.

Stakeholder and Legislative Amendment Requests

- Municipal Affairs has received requests from residents and council's to legislate training requirements for Chief Administrative Officers and other key positions.
- Municipal Affairs has also heard from small municipalities that recruiting and retaining skilled administrators is a challenge.

2. Role of Administration

Background:

A key concept in the current *MGA* is the differentiation between the roles of council and administration. The *MGA* separates municipal law-making functions from administrative functions, assigning the policy setting role to council and the advisory and policy-implementation role to administration. This is emphasized through the *MGA*'s separation of duties between council and administration and providing councils the ability to establish designated officers to carry out specific tasks.

Currently, the *MGA* only requires that a municipality have the position of the CAO. Consequently, some municipalities have one or very few employees. Municipalities operating with minimal staff may lead to councillor's confusing council and administrative duties.

Cross-jurisdictional Research

- Quebec requires municipalities to have a clerk, a treasurer, and a director-general. One person may fill the role of clerk and treasurer. Municipalities with a population over 100,000 must have a chief auditor.

Stakeholder and Legislative Amendment Requests

- Citizens have submitted complaints about council's ability to form a Municipal Planning Commission for the purposes of reviewing and approving subdivisions. They claim this politicizes and biases what is intended to be an administrative process.
- Several municipal inspections conducted in recent years have found municipal councils doing administration's job (e.g. determining which roads need to be plowed, collecting fees for municipal services) or administration performing functions that go beyond their advisory role with council (e.g. administration's role at council meetings).
- Municipal Affairs has received requests from the public and municipal administrators to limit a council's role in the hiring and firing of municipal staff including CAOs.

3. Flexibility and Transparency

Background:

The current *MGA* lists a number of administrative duties and outlines broad processes for how they should be performed (e.g. keeping accurate records and accounts of the municipality's financial affairs). The *MGA* prescribes certain standards within these processes and requires them to be met to ensure a certain amount of public awareness and transparency of process (e.g. ensure council meeting minutes recorded and made accessible to the public). Often, the more prescriptive a CAO's duties are, the more transparent the process; however, being over-prescriptive may limit an administration's ability to address local issues in a timely manner.

Cross-jurisdictional Research

- Roughly half of Canada's provinces (including Alberta) and territories define the chief administrative officer's duties through provincial legislation while the other half allows municipal councils to define the chief administrative officer's duties.
- Manitoba's municipal act outlines the responsibilities of a chief administrative officer and requires that all municipal employees follow a municipal code of conduct as determined by the council.

Stakeholder and Legislative Amendment Requests

- Municipal Affairs has received complaints from citizens that administration is not always forthcoming and may be liberally interpreting the *Freedom of Information and Protection of Privacy Act* in order to limit transparency.

Discussion Questions

1. *Who should determine the requirements for municipal administrations?*
 - a. What minimum requirements are necessary for municipal administrations?
 - b. How should these requirements relate to the population of a municipality?
 - c. What, if any, positions should be required in Albertan municipalities?
 - d. What training or qualifications should be required for key administrative positions such as the Chief Administrative Officer?
2. *How should the MGA address the differentiation of roles between council/councillors and administration?*

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