



WE ARE  
**economies**  
OF SCALE

WE ARE THE  
**support**  
YOU NEED



WE ARE THE  
**experts**  
IN MUNICIPALITIES

WE ARE YOUR  
**advocate**

September 17, 2015

Honourable Deron Bilous  
Minister of Municipal Affairs  
404 Legislature Building  
10800 – 97 Avenue  
Edmonton, AB T5K 2B6

Dear Minister Bilous:

In addition to the key policy changes that AUMA and AAMDC have proposed, AUMA is seeking your support for the attached additional changes relating to amalgamation, annexation, and municipal revenues.

The attached changes include details on our suggested approaches for the annexation, amalgamation, and code of conduct regulations.

Sincerely,

Helen Rice  
AUMA President

Enclosures

## AUMA Key Policy Changes

Policy Position	Description
<p>Clarify regulations regarding annexations.</p>	<p>Annexation is at its most fundamental a change in boundaries between two municipalities. Despite this simple premise, the annexation process has become increasingly contentious in recent years with a number of high profile contested annexations. The current process for annexation does not address the growth pressures faced by municipalities and is onerous.</p> <p>AUMA is seeking additional changes such as expedited processes for annexations that are contemplated in an IDP, criteria that look at land use policies of both the initiating and responding municipality, extending the target annexation period from 25 to 50 years, and additional conflict resolution mechanisms around the issue of compensation. Further details are outlined in Attachment A.</p>
<p>Clarify and expand possibilities for amalgamations.</p>	<p>Amalgamation is a process by which two or more municipalities join to become a single municipality. This is not a new process under the MGA, but is not well utilized or understood in its current state. Bill 20 included amendments for amalgamation, including providing the minister with the power to pass regulations and principles on amalgamations, as well as for non-contiguous summer villages to amalgamate. Within these regulations, there should be a clear amalgamation process that starts with an initial notification by one of the partnering municipalities, followed by a review of whether an amalgamation is necessary. If an amalgamation is deemed to be desirable and agreed upon by the municipalities involved, the process should then identify how such an amalgamation should take place.</p> <p>AUMA is calling for further changes to allow non-contiguous amalgamations. As well, AUMA is suggesting that the regulations provide for principles for amalgamation, allow for a public input process that does not require a plebiscite, and provide for an expedited process for jointly-initiated amalgamations. Further details are outlined in Attachment B.</p>
<p>Provide municipalities with a share of provincial revenue sources.</p>	<p>Municipalities currently lack the revenue generating capability to effectively cover expenses, particularly in light of large infrastructure deficits. Linking municipal revenues to Provincial revenue streams such as income tax and other taxes would ensure that revenues grow with the economy, are more predictable, and will provide diversity to the tax mix.</p> <p>Potential provincial revenue sources include existing hotel and</p>

	<p>gas taxes, a portion of the income tax, resource royalties, or a potential sales tax. Examples exist of municipalities receiving portions of the income tax or sales tax in other jurisdictions (Saskatchewan and Manitoba). This diversifies the municipal revenue mix and provides predictability to municipalities (rather than waiting for annual budget decisions on grant levels). Transferring provincial revenue streams could additionally be done in a tax-neutral manner in which provincial revenues replace certain existing grant funding.</p>
<p>Change linear tax distribution.</p>	<p>Services relating to linear taxes are truly regional in nature, and the employees of industries that support this tax base often do not live in the jurisdiction that collects the linear tax. For example, linear property such as pipelines may deliver significant revenues to municipalities outside of urban municipal borders.</p> <p>This situation does not take into account that the business that utilizes the pipeline and its employees who utilize services and infrastructure provided by the urban municipality, as offices are often located there and employees often live there. As such, pipelines require urban municipalities to support them with infrastructure and services, but urban municipalities do not receive a fair share of the revenue necessary to support them. Though some agreements have been struck to share the cost of services relating to linear property, these agreements are volatile and subject to change.</p>

## Revised AUMA Recommendations for Changes to Amalgamation Legislation

### 1.1 Recommendations – Initiating an Amalgamation

- 1.1.1 That Section 76(1) of the MGA reflect that the Minister may establish and publish principles, standards and criteria that are to be taken into account in considering the amalgamation of two or more municipal authorities.
- 1.1.2 That the MGA be amended to reflect that when two or more municipalities jointly initiate a voluntary amalgamation, the Minister will recommend the amalgamation of the affected municipalities to the Lieutenant Governor for an Order in Council.
- 1.1.3 That the MGA be amended to enable voluntary amalgamations where the boundaries of affected municipalities are not contiguous and that policies and regulations are modified as necessary to support the amalgamation of non-contiguous municipalities.

### Rationale

Section 76(1) of the MGA currently states that the Minister may voluntarily 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. AUMA recommends that this provision remain voluntary for the minister, rather than being a mandatory requirement.

Participants of the Mayors' Caucus indicated that municipalities are in the best position to determine if amalgamation is warranted under local circumstances and if an agreement to amalgamate is reached between two or more municipalities, the Minister should respect the decision and approve the request.

The current legislation does not permit the amalgamation of municipalities that do not share contiguous boundaries. Participants at the Mayors' Caucus session held on March 12, 2015 indicated strong support for the amendment to allow the voluntary amalgamation of municipalities with non-contiguous boundaries. Bill 20 which was released by the Government in late March 2015 contains a provision that will facilitate better governance and service delivery models for summer villages with non-contiguous boundaries. The proposed amendment in Bill 20 does not address the amalgamation of other types of municipalities with non-contiguous boundaries.

## 2.1 Recommendations – Required information to support an amalgamation

- 2.1.1 That the MGA be amended to require municipalities involved in a proposed amalgamation to conduct a restructuring study including a financial and infrastructure evaluation prior to initiating an application.
- 2.1.2 That Section 105(1) be amended to require municipalities which apply to amalgamate to provide in their report on negotiations, plans in place to protect the environment, minimize the development footprint, strengthen communities, provide alternative modes of transportation where appropriate, and provide efficient infrastructure and services to the newly amalgamated municipality.

### **Rationale:**

Based on the research, the province of British Columbia for example requires municipalities considering restructuring which includes amalgamation and annexation, to carry out a restructuring study prior to initiating an application. The Ministry has published a restructuring guide for municipalities considering restructuring which includes information on the pros and cons of restructuring and other factors that should be considered in a restructuring study. In the state of Western Australia, an application for amalgamation or annexation goes through an inquiry process where the Local Government Advisory Board takes into account the following information when considering an application:

- Community of interests;
- Physical and topographical features;
- Demographic trends;
- Economic factors;
- The history of the area;
- Transport and communications;
- Matters affecting the viability of local governments;
- The effective delivery of services; and
- Any other matters it considers relevant.

The MGA currently requires an initiating municipality in an amalgamation application to prepare and submit to the Minister a report that describes the results of the negotiations between the municipalities. The report must list the matters on which there was agreement, those on which there was no agreement between the municipal authorities, a description of the public consultation processes involved in the negotiations; and a summary of views expressed in during the public consultation processes. There is no requirement for either municipality to include other important information such as its policies and plans to protect the environment and resources, minimize the development footprint, strengthen communities, provide alternative modes of transportation, and provide efficient infrastructure and services to the annexed lands. This information was deemed by participants of the Mayors' Caucus to be important criteria to guide decision-making in relation to the approval of an amalgamation application and should be included in the legislation.

### 3.1 Recommendations: Governance and leadership in amalgamations

- 3.1.1 That the MGA be amended to provide guidelines for municipalities to follow as they transition from multiple councils to one council and from multiple municipal organizations to a single organization following approval for amalgamation.
- 3.1.2 That the Section 105(1) of the MGA be amended to require that the initiating municipality in the amalgamation application include in its report on negotiations submitted to the Minister, the proposed process to dissolve existing councils and create an interim council, and the proposed process for creating an amalgamated municipality.
- 3.1.3 That Section 111 of the MGA be amended to provide for the appointment of an interim CAO for a newly amalgamated municipality by the Councils of the amalgamating municipalities.
- 3.1.4 That consideration be given to the delegation of certain responsibilities to community councils to ensure adequate representation for citizens of amalgamated municipalities.

#### **Rationale:**

In the province of Quebec, the legislation requires municipalities applying for amalgamation to identify the new governance structure in the application. This includes creation and composition of the council; the determination of the number of members on the council or a formula to establish that number; the procedure to be used to designate a chair of the council; the remuneration of the council and other council members; and the mode of financing the council.

The appointment, suspension and revocation of the CAO is currently legislated in the MGA. Amending the legislation to include the appointment of an interim CAO in a newly amalgamated municipality would contribute to the transition of the administration and operation of the new municipality.

## Revised AUMA Recommendations for Changes to Annexation Regulations

### 1.2 Recommendations – Initiating an Annexation

- 1.2.1 That Section 76(1) of the MGA be amended to reflect that the Minister shall establish and publish principles, standards and criteria that are to be taken into account in considering the annexation of land from one municipal authority to another.
- 1.2.2 That the MGA be amended to require both municipalities involved in an proposed annexation to demonstrate that they have considered all relevant matters including the efficient use of public and private lands in the region where possible to reduce the footprint of human activities, and that the proposed annexation plan should reflect long-term planning needs of the affected municipalities.
- 1.2.3 That the legislation establishes specific timelines for annexation processes from initiation to a final decision.
- 1.2.4 That timelines for notification of decisions of the Municipal Government Board in relation to annexations be identified in the legislation.

### Rationale:

As noted above, Section 76(1) of the MGA currently states that the Minister may on a voluntarily basis 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. AUMA recommends that this provision remain voluntary for the minister, rather than being a mandatory requirement. Under Bill 20, Section 128(1) further enables the Minister to pass regulations concerning annexation.

It should be noted that in the absence of principles, standards and criteria for annexation, the Municipal Government Board (MGB) has developed several annexation principles to guide its decision making process. These principles are not however ensconced in the legislation and are subject to change according to the decisions of the MGB.

The following principles were adapted from existing MGB annexation principles by the MGA Review Municipal Administrative Officials Working Group and are proposed to guide annexation decisions in the future.

### Annexation Principles

1. Annexations to address growth should ensure the efficient use of public and private lands, and reduce the footprint of human activities.
2. Initiating municipalities that propose to annex lands to address growth should demonstrate that they have policies in place to protect the environment and resources, minimize development footprint, strengthen communities (social, cultural, affordability, health and safety), provide for alternative modes of transportation (pedestrian, cycling, transit, vehicular), good management of agricultural lands, and efficient provision of infrastructure and services.
3. Annexations that provide for intermunicipal cooperation will be given considerable

weight. Cooperative intermunicipal policies in an intermunicipal development plan or municipal regional growth plan will be given careful consideration, weight and support so long as they do not conflict with Provincial policies or interests.

4. Accommodation of growth by all municipalities (urban or rural) must be accomplished without encumbering the initiating municipality and the responding municipality's ability to achieve rational growth directions, cost effective utilization of resources, fiscal accountability and the attainment of the purposes of a municipality described in the Act.
5. An annexation must meet minimum standards for growth projections, availability of lands within current boundaries, density and proven record of increased density, consideration of reasonable development densities, and accommodation of a variety of land uses in the initiating municipality.
6. An annexation must achieve a logical extension of growth patterns, transportation and infrastructure servicing.
7. Projection needs for annexations be targeted, depending on capacity and needs at 50 years unless agreed upon by the involved municipalities.
8. Each annexation must illustrate a cost effective, efficient and coordinated approach to the administration of services.
9. Annexations that demonstrate sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.
10. Coordination and cost effective use of resources will be demonstrated when annexations are aligned with and supported by municipal regional growth plan or intermunicipal development plans, municipal development plans, economic development plans, transportation and utility servicing plans and other related infrastructure plans.
11. Annexation proposals must fully consider the financial impact on the initiating and responding municipality. Municipalities involved in annexations shall bear their own costs associated with the annexation process.
12. Inter-agency consultation, coordination and cooperation is demonstrated when annexations proposals fully consider the impacts on other institutions providing services to the area.
13. Annexation proposals that develop reasonable solutions to impacts on property owners and citizens with certainty and specific time horizons will be given careful consideration and weight.
14. Annexation proposals must be based on effective public consultation both prior to and during any annexation hearing or proceedings.
15. Revenue sharing may be warranted when the annexation proposal involves existing or future special properties that generate substantive and unique costs to the impacted municipality(s) as part of the annexation or as an alternative to annexation. Mandatory costs and revenue sharing should be established at the local level to address local needs on both participating parties.
16. Annexation proposals must not simply be a tax initiative. Each annexation proposal must have consideration of the full scope of costs and revenues related to the affected municipalities. The financial status of the initiating or the responding municipality(s) cannot be affected to such an extent that one or the other is unable to reasonably achieve the purposes of a municipality as outlined in section 3 of the Act. The financial impact should be reasonable and be able to be mitigated through reasonable conditions of annexation.

17. Urban municipalities should be provided with an equality of opportunity regarding industrial development.
18. Conditions of annexation must be certain, unambiguous, enforceable and be time specific.

Participants at the Mayors' Caucus supported taking the size of the municipality into consideration when developing the principles, standards and criteria for annexation. There was strong support for annexations that provide for inter-municipal cooperation and Caucus participants indicated that this factor should be given considerable weight in the decision-making process. Also, there was strong support for when an annexation demonstrates sensitivity and respect for key environmental and natural features within the proposed annexation area that this may potentially conform to provincial land use policies where appropriate and should be considered accordingly in the decision making process.

There are no timelines identified in the annexation principles developed by the MGB which has in the past led to lengthy annexation processes. The proposed amendment which received strong support from the Mayors' Caucus participants will increase the transparency, specificity, clarity and timeliness of the annexation process.

## 2.2 Recommendation- Required information to support an annexation for annexation

- 2.2.1 That Section 118(1) of the MGA be amended to require both municipalities to provide their policies and plans in place to protect the environment, promote the efficient use of land, strengthen communities, provide alternative modes of transportation where appropriate, and provide efficient infrastructure and services. This would not require the creation of new plans prior to an annexation, but would simply require a presentation of the municipalities' general philosophies and approaches to land use.

### **Rationale**

The MGA currently requires an initiating municipality in an annexation application to prepare and submit to the Minister a report that describes the results of the negotiations with the municipalities from which the land is being annexed. The report must list the matters on which there was agreement, and those on which there was no agreement between the municipal authorities; for the matters on which there was no agreement, a description of the attempts at mediation and if mediation did not occur the reasons for it; a description of the public consultation processes involved in the negotiations; and a summary of views expressed in during the public consultation processes. There is no requirement for the initiating municipality to include other important information such as its policies and plans to protect the environment and natural resources, minimize the development footprint, strengthen communities, provide alternative modes of transportation, and provide efficient infrastructure and services to the annexed lands. This information was deemed by participants of the Mayors' Caucus to be critical criteria to guide decision-making in relation to the approval of an annexation application and should be included in the legislation.

#### 4.1 Recommendations – Compensation and revenue sharing in an annexation

- 4.1.1 That the MGA be amended to provide that upon the consent of all municipalities directly affected by an annexation, provision can be made for the appointment of a conciliator to determine compensation following approval of annexation. The decision of the conciliator is binding on all parties.
- 4.1.2 That the MGA be amended to clarify responsibility for financial and/or infrastructure deficits in an annexation and provide formal policies on when and how the provincial government will provide financial assistance.

#### **Rationale:**

Revenue sharing or compensation may be warranted when the annexation proposal involves existing or future properties that generate substantive and unique costs to the impacted municipalities. The research suggests that mandatory costs and revenue sharing should be established at the local level to address the needs of both parties.

The municipal legislation in the province of Quebec for example provides for negotiation of an agreement through conciliation if the municipalities involved in annexation cannot reach agreement on the apportionment of assets and liabilities relating to the territory of the municipality affected by the annexation. Upon request of either municipality, the Minister is required to appoint a conciliator to assist the municipalities to reach an agreement, which when achieved is forwarded to the Minister for approval. If an agreement cannot be reached, the Minister may impose an apportionment of the costs and liabilities and the apportionment is deemed to be an agreement. An agreement reached under the legislation is binding.

Section 124(1)(b) of the MGA states that if the MGB is recommending annexation to the Minister, its report must set out a description of the land, whether there should be revenue sharing, and any terms and conditions and other things the Board considers necessary or desirable to implement the annexation. The legislation is silent on the issue of who has responsibility for financial and/or infrastructure deficits in an annexation application. Participants at the Mayors' Caucus indicated strong support for legislation clarifying responsibility for infrastructure and financial deficits in an annexation, and the criteria for municipalities to access financial assistance from the provincial government in this regard.

In British Columbia, the province provides financial assistance to a restructured municipality. These are by way of per-capita grants provided in conjunction with assistance from other ministries. In addition, restructure implementation grants fund some administrative costs for a restructured municipality.

## AUMA Recommendations for Regulation and Implementation of a Municipal Code of Conduct

### 1. Content for Regulation

#### *Scope*

- Require that council establish a code within nine months following the regulation, with a requirement for a review of the code every three years.
- Require that the code contain the following mandatory elements:
  - roles and responsibilities of councillors and relationship with administration
  - expectations of conduct for the following activities:
    - council meetings;
    - representing council at public or external events;
    - activities outside of council business;
    - external communications, including dealing with the media and engaging in social media;
    - interactions with administration;
    - use of municipal resources; and
    - campaigning for municipal or other elected office while a councillor.
  - confidentiality provisions
  - the need for councillors to support council decisions
- Allow for optional information to be included in the code such as information on councillor attributes (e.g. respect, accountability, integrity) and any other information deemed necessary by council.
- Delineate conflict of interest provisions.

#### *Sanctions*

- Encompass progressive sanctions proportionate to the severity and/or number of offenses that include:
  - letter of reprimand
  - training
  - public disclosure of offense
  - restriction of activities
  - removal from committees
  - full suspension of duties for a defined period of time (as defined in the Act)
  - withholding of office budget (e.g. professional development, travel, hosting, research)
  - reduction or full suspension of pay or stipend corresponding to a reduction in duties
  - monetary fine of up to \$25,000

## *Integrity Commissioner*

- Provide for the appointment of an Integrity Commissioner, outline qualification requirements and specify that municipal associations are engaged in the selection process.
- Reflect a quasi-judicial process, including defined timelines, evidentiary standards, burden of proof, and a right to appeal.
- Separate investigative role from decision making and sanction role (e.g., integrity commissioners appoint tribunals to investigate and commissioner makes the decision on whether there was a breach and the related sanction).

## 2. Training and Acknowledgement

- Reflect mandatory requirement for all councillors to attend a learning event to review the code of conduct when it is first established and to sign an agreement outlining their understanding of it and agreement to follow it.
  - Standard content is required for the learning event but municipalities can add other content as required.
  - Over time, first – time councillors will complete the learning event as part of their orientation and will sign the agreement. When the agreement is reviewed by Council every three years, all councillors will sign a new agreement.

## 3. AUMA's Role in Implementation

- AUMA will prepare a template bylaw and code for councils.
- AUMA will prepare education materials for councils and CAOs.
- AUMA has a casual legal service for councils to access as they develop their bylaw and code.