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Annexation, Amalgamation, Dissolution & Specialized Municipalities

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Introduction



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Annexation

- **Annexation** → one municipality acquires land from a bordering municipality in order to provide room for its own population growth.
- The municipality from which the lands are acquired should not be affected in a negative way due to the annexation.
- Municipalities can initiate annexations by making an application to the Municipal Government Board.



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Annexation: Statutory Requirements

The annexation process is set out in Part 4, Division 6 of the **Municipal Government Act** ("MGA").

- **S. 114:** Land to be annexed must be contiguous with the boundaries of the municipality
- **S. 115:** May only proceed with one annexation at a time regarding same land

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Annexation: Statutory Requirements

- **S. 116(1):** Initiating municipality must serve notice of proposed annexation to:
 - a) Municipality from which land is to be taken;
 - b) The Municipal Government Board; and
 - c) The local authority that initiating municipality considers affected
- **S. 1(1)(m):** Local authorities include municipal, health and school authorities, as well as regional service commissions

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Annexation: Statutory Requirements

- **S. 116(2):** The annexation notice must:
 - a) Describe the land proposed to be annexed;
 - b) Give reasons for the proposed annexation; and
 - c) Include proposals for public consultation, meeting with owners of the lands to be annexed, and keeping them informed.

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Annexation: Statutory Requirements

- **S. 117(1):** Upon receiving annexation notice, affected municipality must meet with initiating municipality to discuss the proposals, and negotiate the proposals in good faith
- **S. 117(2):** If cannot agree, municipalities must use mediation to attempt resolution

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Annexation: Statutory Requirements

- **S. 118(1):** On conclusion of the negotiations, initiating municipality must prepare report describing the results of negotiations, including:
 - a) Matters agreed to, and not agreed to
 - b) Where no agreement, a description of attempts to use mediations, or reasons why mediation did not occur
 - c) A description of the public consultation process, and
 - d) A summary of the views expressed during the public consultation process

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Annexation: Statutory Requirements

- **S. 118(2):** Report must be signed by initiating municipality, and other municipalities affected, that are prepared to sign. Must also include a certificate by initiating municipality that the report accurately reflects the results of the negotiations
- **S. 118(3):** A municipality that does not sign the report may include, in the report, its reasons for not signing

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Annexation: Statutory Requirements

- **S. 119(1):** Initiating municipality must submit report to MGB, and send copy to affected municipality and local authorities
- **S. 119(2):** If initiating municipality wishes to proceed with annexation, the report becomes the application for annexation



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Annexation: Statutory Requirements

- **S.120(1):** If the initiating municipality wishes to proceed with annexation, and the MGB is satisfied that the affected municipal authorities, and the public are in general agreement, MGB notifies local authorities, or other interested parties, that:
 - a) There appears to be general agreement regarding the annexation, and unless objections are filed with the MGB by a specified date, the MGB will make recommendations to the Minister without holding a public hearing.

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Annexation: Statutory Requirements

- **S.120(2):** If no objections filed, the MGB must:
 - a) Consider principles, etc., established under s. 76 (none to date); and
 - b) Prepare a written report with its recommendations and send it to the Minister.
- **S. 120(3):** If objections are filed, the MGB:
 - a) May investigate, analyze, and make findings of fact about the annexation including its probable effects; and
 - b) Must conduct one or more hearings and allow affected persons to appear.

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Annexation: Statutory Requirements

- **S. 121:** Where there is no general agreement regarding the proposed annexation, the MGB:
 - a) **Must** notify the Minister and all local authorities affected, and anyone else the MGB considers should be notified, that there is no general agreement;
 - b) **May** investigate, analyze and make findings of fact about the annexation including its probable effect on local authorities and residents of an area; and
 - c) **Must** conduct one or more hearings regarding the annexation and allow an affected person to appear at hearing

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Annexation: Statutory Requirements

- **S. 122(1):** MGB **must** publish notice of a hearing at least once a week for two consecutive weeks.
- **S. 122(2):** MGB **may** determine the costs of the hearing, and who should pay costs, if any.
- **S. 123:** After conclusion of hearing, MGB **must** prepare written report of its findings and recommendations and send the report to the Minister



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Annexation: Statutory Requirements

- **S. 124(1):** MGB report must set out:
 - a) Recommendation as to whether land should be annexed; and
 - b) If annexation recommended, a description of the land, whether there should be revenue sharing, and any terms, conditions and other things the MGB considers necessary or desirable.
- **S. 124(2):** If MGB recommends against annexation, it must provide report to all affected local authorities.

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Annexation: Statutory Requirements

- **S. 125:** Lieutenant Governor in Council (Cabinet), after considering report, may order annexation.
- **S. 126:** Despite sections 116 – 125, Cabinet, on recommendation of the Minister, may by order annex land to a municipal authority.

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Annexation: Statutory Requirements

- **S. 127(1):** An Annexation order may:
 - a) Require a municipality to pay compensation;
 - b) Dissolve a municipality as a result of annexation; and
 - c) Deal with any of the matters referred to in s. 89 (boundaries, name, status, wards, number of councilors, etc.)
- **S. 127.1:** Annexation does not affect any right under a utility agreement to provide a public utility on the annexed land, unless annexation order provides otherwise (exception for natural gas service if subject to s. 23 of Gas Distribution Act)

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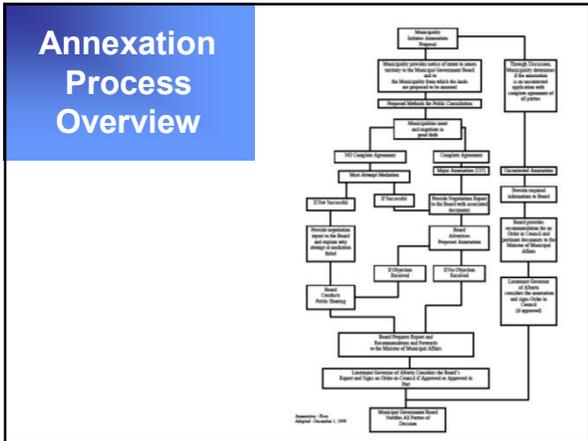


Annexation: Statutory Requirements

- **S. 128:** If annexation refused, municipality may not apply for annexation of the same land for at least one year.



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Annexation Principles

In the absence of criteria authorized by *MGA* s. 76 and in order to deal with various issues raised by affected parties, the MGB has developed a series of annexation principles.

These principles arise from an examination of the *MGA*, Provincial Land Use Policies, and previous annexation orders and recommendations.

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Annexation Principles

1. Annexations providing for intermunicipal cooperation are given considerable weight.
2. Accommodation of growth by all municipalities must be accomplished without encumbering the initiating and responding municipalities' ability to achieve rational growth directions, cost-effective use of resources, fiscal accountability and attainment of the purposes of a municipality described in the *MGA*.

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Annexation Principles

- Annexation should not infringe on local autonomy given to municipalities unless provisions of the MGA have been breached or the public interest and individual rights have been unnecessarily impacted.
- Annexation must be supported by growth projections, land availability, consideration of development densities, accommodation of various land uses and reasonable growth options within each municipality.

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Annexation Principles

- Annexation must achieve a logical extension of growth patterns, transportation and infrastructure servicing for affected municipalities.
- Each annexation must illustrate a cost effective, efficient, and coordinated approach to administering services.
- Annexations demonstrating sensitivity and respect for key environmental and natural features will be regarded as meeting provincial land use policies.

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Annexation Principles

- Coordination and cost effective resource are demonstrated where annexations align with intermunicipal, municipal, and economic development plans, as well as transportation and utility servicing plans.
- Annexation proposals must fully consider the financial impact on initiating and responding municipalities.
- Inter-agency consultation, coordination and cooperation is demonstrated when annexation proposals consider impacts on other institutions servicing the area.

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Annexation Principles

11. Annexation proposals that develop reasonable solutions to impacts on property owners will be given careful consideration and weight.
12. Annexation proposals must be based on effective public consultation both prior to and during annexation hearings or proceedings.
13. Revenue sharing may be warranted when annexation proposals involve existing or future special properties that generate unique costs to impacted municipalities as part of the annexation or as an alternative.

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Annexation Principles

14. Proposals must not simply be a tax initiative. Each proposal must consider full scope of associated costs and revenues. Financial status of affected municipalities cannot be affected to such extent that one or the other is unable to achieve the purposes of a municipality as outlined in section 3 of the MGA. Financial impact should be reasonable and mitigatable through reasonable conditions of annexation.
15. Conditions of annexation must be certain, unambiguous, enforceable, and time specific.

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Case Study: Town of Viking

The Town of Viking ("Viking") applied to annex approximately 20 hectares of land (the "Lands") from the immediately adjacent Beaver County.

Upon hearing submissions from Viking, Beaver County, affected landowners and other interested parties, on March 16, 2018 the MGB recommended approval of the annexation. The proposed annexation complied with the MGA, and addressed the appropriate principles.

The municipalities demonstrated significant cooperation. The intent was logical and amount of land annexed was acceptable. Viking took suitable efforts to solicit input and mitigate concerns of landowners. In arriving at its decision, the MGB considered **consultation, annexation area, and transitional matters.**



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Case Study: Town of Viking

The **consultation process** undertaken by Viking and negotiations between the municipalities were satisfactory. Viking kept the public and affected landowners informed, facilitating a meaningful dialogue. Parties negotiated a mutually agreeable annexation.

The **annexation area** was reasonable considering Viking's size and growth level. The location was also reasonable as it was favorably located for attracting commercial/industrial businesses. The Lands fall within a Joint Development Area, which allows the two municipalities to collaborate on development. It was also considered that Viking can efficiently connect the water and sewer lines in the Lands to existing infrastructure.

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Transitional matters considered include assessment and taxation, bylaws, and development.

The municipalities agreed on a 15-year assessment and taxation transition period. Annexed lands would be taxed at whichever municipal rate was lower, to the benefit of landowners. Assessment and taxation protection would only be removed during the 15 year transition if the landowner requests land subdivision or redesignation.

To mitigate impacts of annexation on the landowner, Viking amended a bylaw which allowed for the maximum number of permitted horses to be kept on the Lands. Subject to offsite levies and/or servicing charges, the Lands would also be allowed to connect to Viking water and sewer services.

Despite a suggestion that Viking should not be a developer, its involvement in the development of the annexation area is something that should be addressed at the local level. Leasing agreements between Viking and the landowner as well as development phasing go beyond the scope of an annexation.

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Amalgamation

- **Amalgamation** → two or more municipalities with shared borders join together to become one municipality.
- Municipalities might amalgamate if they believe they can operate more effectively or efficiently together rather than separately.
- Municipalities usually initiate amalgamation voluntarily, but the Minister of Municipal Affairs can also initiate an amalgamation.



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Amalgamation: Statutory Requirements

Amalgamation process is set out in Part 4, Division 5 of the MGA.

- **S. 101(1):** Amalgamation orders may not result in an area of land that is:
 - a) Not included in any municipality; or sharing common border
 - b) Part of the amalgamated municipal authority, but not contiguous with other land in the amalgamated municipality.
- **S. 101 (2):** An order may amalgamate 2 or more summer villages whose boundaries border on or include part of the same body of water.

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Amalgamation: Statutory Requirements

- **S. 101(3):** An order may amalgamate two or more summer villages so long as the amalgamated municipality is given the status of summer village.
- **S. 102:** Amalgamation of two or more municipalities may be initiated:
 - a) By a municipality;
 - b) By two or more municipalities; or
 - c) By the Minister.

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Amalgamation: Statutory Requirements

- **S. 103(1):** A municipality indicates an amalgamation through written notice of the proposed amalgamation to:
 - a) Municipalities with which it proposes to amalgamate;
 - b) The Minister; and
 - c) All local authorities with jurisdiction to operate or provide services in either the initiating municipality or any of the municipalities with which it proposes to amalgamate.

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Amalgamation: Statutory Requirements

- **S. 103(2):** If amalgamation would result in area of land within the boundary of the amalgamated municipality, but the land is not part of the amalgamated municipality, the initiating municipality must give notice of its intention to annex that land along with its notice of proposed amalgamation.
- **S. 103(3):** The above does not apply if the land within the amalgamated municipality is the area of the existing municipality.

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Amalgamation: Statutory Requirements

- **S. 103(4):** Notice for amalgamation must include:
 - a) Names of all municipalities to be amalgamated and reasons for amalgamation; and
 - b) Proposals for consulting with local authorities and the public.

NOTICE
THANK YOU FOR NOTICING THIS NOTICE
YOUR NOTING IT HAS BEEN NOTED
under the provisions of the Act

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Amalgamation: Statutory Requirements

- **S. 104(1):** Proposed amalgamated municipalities must, on receipt of notice under S. 103, meet with the initiating municipality to discuss and negotiate the proposals included in the notice in good faith.
- **S. 104(2):** Initiating municipality must keep the Minister informed of progress of negotiations.

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Amalgamation: Statutory Requirements

- **S. 105(1):** Initiating municipality must prepare a report describing the results of the negotiations including:
 - a) List of relevant matters both agreed upon and not agreed upon;
 - b) Description of public consultation process involved; and
 - c) Summary of the views expressed during public consultation process.
- **S. 105(2):** Report must:
 - a) Include certificate by initiating municipality confirming the report accurately reflects results of negotiation; and
 - b) Be approved by resolution of council of both the initiating municipality and other municipalities agreeing to amalgamation.

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Amalgamation: Statutory Requirements

- **S. 105(3):** Municipality whose council does not pass resolution approving the report may include in the report its reasons for not approving.
- **S. 106(1):** On completion of report on the direct negotiations, the initiating municipality must submit report to the Minister, any municipalities with which it proposes to amalgamate, and any other local authority that may be affected.

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Amalgamation: Statutory Requirements

- **S. 106(2):** If initiating municipality wishes to proceed, the report becomes its application for amalgamation.
- **S. 106.1(1):** Minister may make regulations for the purpose of enabling municipalities to jointly initiate amalgamation.
- **S. 107:** Minister may initiate amalgamation of two or more municipalities if Minister believes amalgamation will promote effectiveness or efficiency.

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Amalgamation: Statutory Requirements

- **S. 108:** When the Minister initiates amalgamation:
 - a) Must give written notice to the municipalities proposed to be amalgamated, and to any local authority likely to be affected;
 - b) May invite comments on proposed amalgamation from all local authorities and other persons the Minister considers would be affected by amalgamation,
 - c) May invite comments from the public; and
 - d) May conduct one or more meetings of the public to discuss probable effects of amalgamation.

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Amalgamation: Statutory Requirements

- **S. 109:** Before municipalities are amalgamated, Minister must consider the principles, standards, and criteria established under section 76 (none to date).
- **S. 110:** Lieutenant Governor in Council, on the recommendation of the Minister, may order amalgamations to form a new municipality.

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Amalgamation: Statutory Requirements

- **S. 111:** An order to amalgamate municipalities may:
 - a) Dissolve one or more of the councils of the amalgamated municipalities;
 - b) Provide for an interim council;
 - c) Require one municipality to pay compensation to another, as set out in the order or by means determined in the order, including arbitration; and
 - d) Deal with any of the matters referred to in section 89 (boundaries, name, status, wards, number of councilors, etc.).

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Amalgamation: Statutory Requirements

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

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Case Study: Lac La Biche County

- On August 1, 2007, the municipal district Lac La Biche County ("LLBC") was formed by the amalgamation of the Town of Lac La Biche and Lakeland County ("Old Municipalities").



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The Order in Council outlined the following:

- All assets/liabilities of the Old Municipalities are vested in LLBC and dealt with in its name, including actions or rights of action.
- Bylaws and resolutions of the Old Municipalities continue to apply within their respective boundaries until the bylaws and resolutions are repealed, amended, or replaced by council of LLBC.
- Agreements held by the Old Municipalities are binding on LLBC.
- References to the Old Municipalities in any order, regulation, bylaw, resolution, or legal instrument are deemed reference to LLBC.
- Employees of the Old Municipalities become employees of LLBC.
- Councils of the Old Municipalities are dissolved, but members remain as interim council for LLBC until the first general election.
- Interim council shall elect interim CEO for LLBC.
- Minister has broad power to decide questions regarding property, rights, assets, liabilities, and composition of interim council.

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Dissolution

- **Dissolution** → a municipality ceases to operate or exist as a distinct municipality. When a municipality dissolves, another municipality usually takes over governance of the area.
- Dissolution may be desirable for a wide variety of reasons. A viability review can help individual municipalities determine whether dissolution is a good option.



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Dissolution: Statutory Requirements

The dissolution process is set out in Part 4, Division 7 of the *MGA*.

- **S. 129:** This Division does not apply to dissolution of a municipality as a result of annexation.
- **S. 130(1):** Prior to a dissolution, the Minister must:
 - a) Undertake a viability review; and
 - b) Hold a vote of the electors of the municipality on the proposed dissolution.

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Dissolution: Statutory Requirements

- **S. 130(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 municipality's council;
 - b) The Minister receives a sufficient petition requesting a viability review from at least 30% of electors of the municipality, or in the case of a summer village, at least 50% of the residents; or
 - c) The Minister believes a viability review is warranted.

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Dissolution: Statutory Requirements

- **S. 130(3):** Viability review must be conducted in a manner determined by the Minister.
- **S. 130(4):** If Minister receives a request in accordance with subsection (2)(a) or sufficient petition in accordance with (2)(b) and believes a different process than a viability review is more appropriate, the Minister may require that process be undertaken instead of a viability review.

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Dissolution: Statutory Requirements

- **S. 130.1:** After completing viability review, Minister may:
 - a) Direct the council or CAO 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 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.

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Dissolution: Statutory Requirements

- **S. 130.2(1):** A vote must be conducted in accordance with the *Local Authorities Election Act* as modified by directions given by the Minister.
- **S. 130.2(2):** If electors vote to dissolve the municipality, Minister must recommend the same to the Lieutenant Governor in Council.
- **S. 130.2(3):** If electors vote not to dissolve the municipality, Minister must by order direct council or the CAO to take actions referred to in section 130.1(b).

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Dissolution: Statutory Requirements

- **S. 130.3:** If an order is not carried out to the satisfaction of the Minister, Minister may dismiss the council or any member of its CAO of the municipality in accordance with section 574 (direct election of new council member, appoint new officer and specify remuneration, etc.)

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Dissolution: Statutory Requirements

- **S. 133(1):** Lieutenant Governor in Council may, on Minister's recommendation, order dissolution of municipality.
- **S. 133(2):** A dissolution order:
 - a) Must direct all or part of the land in the dissolved municipality becomes part of another municipality;
 - b) May deal with any of the matters referred to in section 89 (boundaries, name, status, wards, number of councilors, etc.); and
 - c) May appoint a liquidator and specify the liquidator's powers, duties and functions

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Dissolution: Statutory Requirements

- **S. 134:** If a dissolved municipality's liabilities exceed its assets, Lieutenant Governor in Council may authorize its successor to impose additional tax under Part 10 on property located in the area of the dissolved municipality to pay for the same.

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Case Study: Grande Cache

- Order in Council dated September 27, 2018 dissolved the Town of Grande Cache ("GC") on following terms:
 - Former area of GC became part of The Municipal District of Greenview No. 16 ("Greenview").
 - Former area of GC to be known as Hamlet of GC until council of Greenview changes designation in accordance with MGA s. 59.
 - All assets/liabilities of GC are vested in Greenview.
 - GC bylaws and resolutions continue to apply in former area of GC until the same are repealed, amended, or replaced by Greenview.
 - Greenview may impose additional tax under MGA Part 10 on property located in former area of GC to pay for excess liabilities, and to meet obligations under borrowing made by GC prior to dissolution.

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- Reference to GC in any order, regulation, bylaw, or any other instrument is deemed to be a reference to Greenview.
- Employees of GC become employees of Greenview upon dissolution, and all employment records related to those employees transfer to Greenview.
- Order in Council dictates that, until Greenview passes bylaw, council consists of acting members for Greenview plus 2 councilors from GC.
- Prior to 2021 general election, Greenview must pass bylaws specifying odd number of councilors, and establishing number of wards and boundaries.
- Greenview shall use money received from GC upon dissolution for purpose of paying liabilities vested in Greenview by virtue of dissolution, and GC's money shall be accounted for separately.
- Complaints filed prior to dissolution in respect of property located in GC shall be heard by assessment review board established by GC, if board began hearing the matter prior to dissolution date. Otherwise, complaint shall be heard by Greenview assessment review board.
- Minister may decide various matters arising out of dissolution. 56

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Specialized Municipalities

- **Specialized Municipalities** → unique local governments formed without the creation of special legislation.
- Typically allow for the coexistence of urban and rural areas within the jurisdiction of a single municipal government.



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Specialized Municipalities: Statutory Requirements

Under S. 83 of the *MGA*, specialized municipalities ("SM") may be formed for an area:

- **S. 83(a)** where the Minister is satisfied that other types of municipalities under the *MGA* do not meet the needs of the proposed municipality's residents;
- **S. 83(b)** to form a local government that, in the opinion of the Minister, will provide for the orderly development of the municipality in a similar fashion to the other types of municipality under the *MGA* (municipal district, village, town, city) or another form of SM; or
- **S. 83(c)** in which the Minister is satisfied for any other reason that it is appropriate in the circumstances to form a SM.

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Specialized Municipalities: Statutory Requirements

- **S. 20(1):** Minister of Transportation has control/management over roads within SM.
- **S. 20(2):** However, SM council may enter into agreement with Minister providing that all or part of the control/management over roads may be exercised by SM.
- **S. 20(3):** In cases described above, Minister may require SM to pay for associated costs with respect to managing roads.

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Specialized Municipalities: Statutory Requirements

- **S. 89(3):** Order forming SM must state the number of councilors to comprise its council, and may:
 - (a) establish wards and their boundaries;
 - (b/c) specify which provisions of *MGA* or other enactments apply to the SM, and which provisions are added to replace provisions of *MGA* or other enactments;
 - (d) set conditions governing functions, powers, and duties of the SM; and
 - (e) if formed all or partly from an improvement district, provide that Part 15 continues to apply to the SM as if it were an improvement district.

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Specialized Municipalities: Statutory Requirements

- **S. 89(4):** If order provides that Part 15 continues to apply to SM, Minister may at any time:
 - (a) exercise any ministerial powers in respect of improvement districts;
 - (b) limit power, authority, or jurisdiction of the SM;
 - (c) prescribe conditions under which SM may exercise any power;
 - (d) require SM to exercise or perform a power, right, or duty;
 - (e) authorize council to pass some or all bylaws that council of a municipal district may pass, subject to any conditions imposed by Minister.

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Specialized Municipalities: Statutory Requirements

- **S. 93(c):** The Minister may change the status of SM to another type of municipality if satisfied that the conditions originally present allowing for the formation of SM no longer exist.

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Specialized Municipalities

ON SPECIAL

- Lac La Biche County
- Municipality of Crowsnest Pass
- Municipality of Jasper
- Mackenzie County
- Strathcona County
- Regional Municipality of Wood Buffalo

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Case Study: Lac La Biche County

- On September 14, 2017, an Order in Council changed the status of Lac La Biche County ("LLBC") from municipal district to specialized municipality.



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- The Order in Council outlined the following:
 - Status change provided for unique needs of municipality including an urban centre and large rural territory.
 - Enactments applicable to towns apply in Urban Service Area ("USA"), while enactments applicable to municipal districts apply in Rural Service Area ("RSA").
 - Outlines number of councilors and chief elected official (mayor), election structure, and division into 7 electoral wards and their boundaries.
 - For purposes of program delivery and grant eligibility, RSA to be recognized as equivalent to a municipal district, and USA to be recognized as equivalent to a town.
 - Council may pass property tax bylaw outlining different tax rates for property in RSA and USA.
 - For purpose of determining population, instead of being treated as individual entity, LLBC shall be treated as three separate areas: (1) RSA; (2) Hamlet of Lac La Biche; and (3) Hamlet of Plamondon ⁶⁵

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BARRISTERS SOLICITORS



Thank You For Your Attention Questions Are Welcome

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