

Municipal Affairs

PETITION TO COUNCIL

Information for the General Public,
Elected Officials and Municipal Officers

Capacity Building, Municipal Services Branch
Petition to Council – Information for the General Public, Elected Officials and Municipal Officers
Alberta Municipal Affairs
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1. Introduction

The intent of this document is to identify those areas of the *Municipal Government Act (MGA)* relating to petitions to council, and to supplement and explain specific sections or applications of the *MGA*.

This is not a legal document. It is only a brief summary of the petitioning requirements. **Do not** base your decisions on this summary alone, but use it in conjunction with the appropriate legislation.

Appendix A is a listing of the applicable references to petitions within the *MGA*. You are urged to obtain an office consolidation of the *MGA*, including amendments, prior to initiating a petition. Copies of the *MGA* and *Local Authorities Election Act* can be obtained from the Queen’s Printer bookstore.

Queen’s Printer Bookstore
Main Floor Park Plaza Building
10611 – 98 Avenue
Edmonton, Alberta T5K 2P7
Phone: (780) 427-4952
Fax: (780) 452-0668
Website: www.qp.alberta.ca

This document is only a guide to the legislation. Consult your solicitor for advice on specific situations.

2. Definitions

| | |
|------------|---|
| CAO | means the Chief Administrative Officer of the municipality as defined in section 1 of the <i>Municipal Government Act (MGA)</i> . |
| CEO | means the Chief Elected Official of the municipality as defined in section 1 of the <i>MGA</i> . |
| Council | means the elected council of a municipality as defined in section 1 of the <i>MGA</i> . |
| Elector | means a person who is eligible to vote in an election as defined in section 1 of the <i>MGA</i> and section 1 of the <i>Local Authorities Election Act (LAEA)</i> . |
| LAEA | refers to the <i>Local Authorities Election Act</i> , Chapter L-21 of the Statutes of Alberta 2000, and amendments thereto. |
| MGA | refers to the <i>Municipal Government Act</i> , Chapter M-26 of the Statutes of Alberta 2000, and amendments thereto. |
| Petition | is a formal request to Council signed by a number of electors. |
| Petitioner | is an elector as defined in section 1 of the <i>MGA</i> and section 1 of the <i>LAEA</i> who signs a petition. |

| | |
|--------------------|--|
| RSA | Revised Statutes of Alberta. |
| “The Act” or “Act” | refers to the <i>Municipal Government Act (MGA)</i> . |
| Witness | means an adult person who claims that he or she was personally present and saw the signatory sign his or her name. |

3. What Is a Petition

A petition, within the context of this document and the *MGA*, is a formal request to those in authority for an action to be taken.

4. Who May Petition

Only the electors of a municipality are eligible to be petitioners. See section 222 of the *MGA*. Please refer to section 47(1) of the *LAEA* to determine eligibility.

The only exception to the above is where the owners of property can petition in regard to local improvements. See sections 392, 393, and 408 of the *MGA*.

5. What Can Be Petitioned

Section 232(1) of the *MGA* states that electors may petition the locally elected council for a new bylaw or to amend or repeal an existing bylaw or resolution on any matter within the jurisdiction of the council under the *MGA* or any other enactment, subject to some limitations.

Locally elected councils may also be petitioned to hold a public meeting (s. 229), for a public vote on an advertised bylaw or resolution (s. 231), or for local improvements (s. 393).

Please see Appendix A for a complete list of *MGA* sections pertinent to petitions.

5.1 Limitations on Petitions

Section 231(1) prohibits petitions for a vote on proposed planning, development, and road closure bylaws and resolutions even though they are advertised.

Section 232(2) of the *MGA* prohibits petitions for new bylaws or against existing bylaws or resolutions under Part 8 (Financial Administration), Part 9 (Assessment of Property), Part 10 (Taxation) and Part 17 (Planning and Development). As well, sections 408 and 409 prohibit petitions against necessary local sewer improvements and private connections to water and sewer improvements.

5.2 Limitations on Time

Petitions for a vote on other bylaws or resolutions that must be advertised must be submitted to the municipal CAO within a specified time period. A petition to council for a vote of the electors on a proposed bylaw under Part 8 (Financial Administration) is not deemed to be sufficient unless it is filed with the CAO within 15 days of the last date on which the proposed bylaw or resolution is advertised. See section 231(3) of the *MGA*.

A petition to council for a vote of the electors on a proposed bylaw or resolution that is required to be advertised by another part of the *MGA*, or another enactment, is not

deemed to be sufficient unless it is filed with the CAO within 60 days of the last date on which the proposed bylaw is advertised. See section 231(4) of the *MGA*.

6. Number of Petitioners Required

The minimum number of petitioners required is substantial, but the specific number varies in relation to the purpose and nature of the petition.

| <i>MGA</i> Section | Purpose of Petition | Population Requirement |
|--------------------|-----------------------------|--|
| Section 85 | Formation of a municipality | 30% of the electors of the population within the boundaries of the proposed municipality. |
| Section 223 | Other matters | Electors numbering at least 10% of the municipality’s population or in the case of summer village, 10% of the electors in the summer village. |
| Section 392 | Local Improvements | 2/3 of the owners who would be liable to pay the local improvement tax and the owners who sign represent at least ½ of the value of the assessments for the land on which the tax will be imposed. |

Electors are defined in Sections 12 and 47 of the *LAEA*.

7. General Requirements

The general requirements for a petition are contained in section 224 of the *MGA*. Each page of the petition must contain an identical statement of the purpose of the petition. The wording of a petition is very important. It is recommended that legal or professional assistance be obtained to draft a petition.

The petition must include, for each petitioner:

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the signature of the petitioner,
- (c) the street address of the petitioner (a “Rural Route” or “Post Office Box” address is not sufficient), or the legal description of the land on which the petitioner lives, and
- (d) the date on which the petitioner signs the petition.

The signature of an adult witness must be included next to each petitioner’s signature. Each witness must also take an affidavit that, to the best of the person’s knowledge, the signatures witnessed are those of the persons entitled to sign the petition.

A sample petition format is attached as Appendix D.

8. Role of a Petition Witness

As a witness to the petitioner’s signature, it is your responsibility to determine that each

person signing the petition is eligible to do so. This requires you to determine, at a minimum, that the petitioner is an eligible voter as laid out in sections 12 and 47 of the *LAEA*.

The most important requirements are:

Section 47(1) A person is eligible to vote in an election held pursuant to this Act if the person

- (a) is at least 18 years old,
- (b) is a Canadian Citizen, and
- (c) has resided in Alberta for the 6 consecutive months immediately preceding election day and the person's place of residence is located in the area on election day.

In the case of a petition, section 47(1)(c) is intended to mean that they do live in the municipality and could vote in an election in that municipality.

As a witness, you must be present and see the person sign the petition document.

Section 12(1)(b) of the *LAEA* outlines the voter requirements for a resident of a summer village as:

- (i) the person is eligible to vote under section 47.
- (ii) the person is 18, a Canadian citizen and is named on a certificate of title as the person who owns property with the summer village, or
- (iii) the person is 18 a Canadian citizen and is the spouse or adult interdependent partner or a person referred to in subclause (ii).

Again, as a witness, you must be present and see the person sign the petition document.

A checklist for the petition witness is attached as Appendix B.

A sample witness affidavit is attached as Appendix E.

Upon completion of the petitioning process, and prior to submission, a signed statement of the Representative of the Petitioners must be attached to the petition.

A sample is attached as Appendix F.

The statement must state:

- (a) that the person named in the statement is the representative of the petitioners, and
- (b) that the Minister of Municipal Affairs may direct any inquiries about the petition to the representative.

Be aware of the time constraints mentioned earlier that a petition must be submitted no later than 15 days after the date of the last advertisement for financial bylaws and resolutions and no later than 60 days after the date of the last advertisement for other bylaws and resolutions. Also note that petitioners cannot sign the petition more than 60 days before the petition is filed.

A final checklist for the representative of the petitioners is attached as Appendix C.

9. Determining Sufficiency

A petition to council is filed with the CAO of the municipality, who is responsible for determining the sufficiency of the petition in accordance with section 225 of the *MGA*.

Names cannot be added or removed from a petition once it has been filed with the CAO. See section 225(2) of the *MGA*.

The CAO must not count any names that do not comply with the requirements for a petition. These include:

- (a) a signature that is not witnessed,
- (b) each page of the petition must have an identical purpose statement,
- (c) a petitioner whose printed name is not included or is incorrect,
- (d) a petitioner whose street address or legal description of land is not included or is incorrect,
- (e) if the date of signing is not included, and
- (f) the names of any petitioners who signed the petition more than 60 days prior to the date the petition was filed with the CAO cannot be counted.

See section 225 of the *MGA* for a complete listing.

Within 30 days of the date when the petition has been filed, the CAO must make a declaration as to whether or not the petition is sufficient. See section 226 of the *MGA*.

10. Response to a Petition

The action requested in a petition directed to the local council requires a response. The response time or action varies with the nature and subject matter of the petition.

Two specific examples are:

- (a) Council receives a petition under section 231 of the *MGA* for a vote on an advertised proposed bylaw.

Action: Council must decide not to proceed with the bylaw **or** submit the bylaw to a vote of the electors within 90 days after the CAO declares the petition sufficient. If Council submits the bylaw to a vote of the electors, all previous readings of the bylaw are rescinded and council cannot give the bylaw any more readings. Council must proceed to pass the bylaw if it is approved by a vote of the electors.

- (b) Council receives a petition under section 232 of the *MGA* for a new bylaw on a matter that is within the jurisdiction of council.

Action: Council must, within 30 days of the CAO declaring the petition to be sufficient, give first reading to the bylaw. Council then has the option of passing the bylaw within 30 days of the date of the first reading, or putting the bylaw to a vote of the electors within 90 days of the date of first reading. Council is bound by the results of a vote of the electors.

11. Public Vote Bylaws

Council is bound by the results of a vote of the electors under sections 233 and 234 of the *MGA*. Section 234 also outlines the time periods that must be adhered to when petitioning on bylaws that were previously subjected to a public vote.

Section 239 of the *MGA* states that a council may refuse to receive petitions on the same or similar subject for a period of one year following a vote of the electors on a bylaw or resolution.

12. Delay of a Vote of the Electors

Section 238 of the *MGA* states that if a valid petition requiring a vote of the electors is received within 12 months prior to a general election, Council can delay the vote to coincide with the general election.

13. Petitions for Local Improvements

Ratepayers can petition for local improvements under section 393 of the *MGA*. Petitions for local improvements must meet the criteria set out in section 392 to be sufficient. In addition to meeting the general rules for petitions, a local improvement petition must:

- (a) be signed by two thirds of the owners who would be liable to pay the local improvement; and
- (b) represent at least half of the assessed value of the parcels against which the local improvement is to be applied.

Council can, under section 408, impose a local improvement for a sewer if council considers it to be in the public interest and the construction is recommended by a health officer. There is no right to petition against the local improvement in this instance.

Section 409 also allows council to assess the cost of constructing private connections for local improvements against the properties involved without the right of petition.

14. Additional Information

If you still have questions after reading the applicable sections of the *MGA*, and reviewing this handout, please contact the Municipal Services Branch of Alberta Municipal Affairs at 780-427-2225, toll-free in Alberta by dialing 310-0000 first.

REFERENCES TO PETITIONS – MGA

Identification of the pertinent sections of the *Municipal Government Act (MGA)* in regard to petitions

- 219 - rules and scope of petitions
- 221 - sufficiency requirements for a petition
- 222 - who can petition
- 223 - the normal number of petitioners required
- 224 - requirements for petition statement, signatures and documents
- 225 - counting petitioners to determine sufficiency
- 226 - reporting on the sufficiency of a petition
- 229 - petitioning council to hold a public meeting
- 231 - petition for a vote on an advertised bylaw or resolution
- 232 - petitioning for a new bylaw, or to amend or repeal a bylaw or resolution
- 233 - council's duty on receiving a valid petition
- 234 - petitions respecting "public vote bylaws"
- 235 - council required to comply with a vote on a question
- 238 - criteria to delay a vote of electors to a general election
- 239 - time limitations on petitions dealing with the same or a similar subject
- 240 - minimum times for changes to public vote bylaws
- 392 - petitioning rules modified for petitions for local improvements
- 393 - owners can petition for local improvements
- 408 - prohibition against petitioning against a local improvement for sewers in special circumstances
- 409 - prohibition against petitioning against the cost of connections to a local improvement
- 606 - inclusion of an outline of the petitioning procedures in the advertising requirements for a bylaw or resolution

Witness Check List

- Read the relevant sections of the *Municipal Government Act (MGA)* and the *Local Authorities Election Act (LAEA)*.
- Ensure you have read and understand the Witness Affidavit prior to collecting any signatures. (Appendix D)
- Ensure each petitioner signature that you witness is an eligible elector of the municipality by asking if they are:
 - a Canadian citizen, over 18 years of age, and a resident of the municipality
- Ensure you personally see the person complete the petition document.

After collecting signatures:

- Ensure you complete the Witness Affidavit (Appendix D), and that is properly signed by a Commissioner for Oaths.

Representative of Petitioners Check List

- Read the relevant sections of the *Municipal Government Act (MGA)* and the *Local Authorities Election Act (LAEA)*.
- Be aware of the number of signatures required for the type of petition you are presenting.
- Ensure the Witnesses are aware of their responsibility.

When a petition is received by the Ministry, it **must** include:

- Each page of the petition must contain an identical statement of the purpose of the petition (Appendix D).
- A completed Witness Affidavit for each witness (Appendix E), properly signed by a Commissioner for Oaths.
- A signed and dated Statement of Representative Petitioners (Appendix F).

PETITIONS ARE PUBLIC DOCUMENTS

PETITION BY ELECTORS

(pursuant to the *Municipal Government Act* and amendment's thereto)

To: The Council of the (type of municipality) of (name of municipality), in the Province of Alberta.

The undersigned persons, being electors of the (type of municipality) of (name of municipality), in the Province of Alberta, hereby petition the council of (name of municipality) for/to:

(2) *Accurately state purpose and objectives of Petition in this space.*

EACH PETITIONER, by signing this petition, certifies that he (or she) is an elector of the (type of municipality) of (name of municipality).

| Signature of Petitioner | Printed Name | (3) Street Address or Legal Land Description | (4) I am an elector of this municipality | Date | (5) Signature of Adult Witness |
|-------------------------|--------------|--|--|------|--------------------------------|
| | | | | | |
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NOTES:

1. This form is a suggested form only and is prepared by Alberta Municipal Affairs for the information and convenience of interested individuals. It has no legislative effect. For certainty, legal advice should be sought when a petition is being considered.
2. Each page of the petition shall contain an accurate and identical statement of the purpose and objectives of the petition. As the wording of the petition is critical, legal advice should be obtained.

PETITIONS ARE PUBLIC DOCUMENTS

3. In the absence of a municipal address, specify the legal description of the property on which the petitioner resides.
4. Each petitioner shall indicate that they are an eligible elector of the municipality by checking this field. An eligible elector is a Canadian citizen, over 18 years of age, and a resident of the municipality. (See Section 47 of the *Local Authorities Election Act (LAEA)* for further information. In the case of summer village, see section 12 of the LAEA.)
5. Each person witnessing a signature on the petition is required to sign an Affidavit that to the best of their belief, the persons whose signatures they witnessed are electors of the municipality. See Appendix E.

AFFIDAVIT

I, (name), pursuant to the *Municipal Government Act* and amendments thereto, of the (type of municipality) of (name of municipality), in the Province of Alberta, MAKE OATH AND SAY:

1. THAT I was personally present and did witness those signatures on the attached petition where I have signed my name as an adult person.
2. THAT to the best of my knowledge the persons whose signatures I have witnessed on this petition are electors of the (name of municipality).
 - a. An eligible elector, at a minimum, is a Canadian citizen, over 18 years of age, and a resident of the municipality. (See Sections 12 and 47 of the *Local Authorities Election Act (LAEA)* for further information.)
 - b. I personally observed each person complete the petition document.

SWORN (or affirmed) before me at _____)
 _____)
 _____)
 in the Province of Alberta, _____)
 _____)
 this _____ day of _____)
 20_____. _____)
 _____)
 _____)
 _____)

 (Signature of person who witnessed signatures on the petition)

 A Commissioner for Oaths/Notary Public in and for the Province of Alberta

*(PRINT OR STAMP NAME HERE)

MY APPOINTMENT EXPIRES _____
 *(Must be legibly printed or stamped).

STATEMENT OF REPRESENTATIVE OF PETITIONERS

(pursuant to the *Municipal Government Act* and amendments thereto)

I, (name), of (current address including postal code) in the (type of municipality) of (name of municipality), in the Province of Alberta, state that I represent the petitioners and am the person to whom the municipal council may direct any inquiries with regard to the petition.

DATED at the _____ of _____, in the Province of Alberta, this _____ day of _____, 20_____.

| | | |
|---------|-----------------------------|----------------|
| _____ | _____ | _____ |
| Witness | Signature of Representative | (Printed Name) |
| | | _____ |
| | | _____ |

Note: Use this as the last page of a Petition.