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AUMA Analysis of October 2017 Regulations

Contents

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Code of Conduct for Elected Officials Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Matters the Code of Conduct Must Address	- The Code of Conduct must be consistent with the municipal purposes and general duties of councillors set out in sections 3 and 153 of the MGA, and must include the following topics at a minimum: o representing the municipality; o communicating on behalf of the municipality; o respecting the decision-making process; o adherence to policies, procedures and bylaws; o respectful interactions with councillors, staff, the public and others; o confidential information; o conflicts of interest; o improper use of influence; o use of municipal assets and services; and o orientation and other training attendance.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The regulation should clearly delineate between the duties and personal conduct of elected officials in matters that must be included in the Codes. o There is a lack of clarity as to what constitutes "improper use of influence," "interactions with councillors, staff, the public, and others," and "communication on information." o Additional clarity is needed on provision 1(j) regarding training attendance as to which training, specifically, the provision is referring. As some Councils are provided funding to attend training programs of their choice, this provision may confuse some readers.
Complaints Process	- The complaints process is left up to municipalities. - Municipalities must establish a process to address complaints including who may make a complaint, how complaints are to be made, the process to determine the validity of complaints, and the process to determine sanctions.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The complaint process should explicitly define who can make a complaint and how complaints come forward, or exactly what constitutes a breach. o Municipal administrators should be excluded from conducting the complaints review process. o A process is needed to enable municipalities to filter out spurious complaints. o Municipalities should be enabled to refuse complaints from frequent repeat complainers, as incidences of disgruntled individuals may result in constant unnecessary investigations. o Clear parameters are necessary regarding how complaints are reviewed and sanctions are applied.

			▪ A potential avenue some municipalities may wish to take is a regional complaint review board composed of councillors from area municipalities. This should be explicitly enabled to ensure municipalities can utilize this approach.
Sanctions	- Municipalities may choose to implement sanctions for councillors failing to adhere to the code of conduct including: - A letter of reprimand to the councillor or requesting the councillor to issue a letter of apology, which may also be published along with the councillor's response; - A requirement to attend training; - Suspension or removal of the appointment of a councillor as the chief elected official, deputy chief elected official or acting chief official; - Suspension or removal of the chief elected official's presiding duties from all council committees and bodies to which council has the right to appoint members; - Suspension or removal from some or all council committees and bodies to which council has the right to appoint members; and, - Reduction or suspension of remuneration corresponding to a reduction in duties, excluding allowances for attendance at council meetings.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The decision-making/sanctioning role should be clearly separated from the investigative role, and could potentially be handled by the Provincial Ethics Commissioner. o A third party position such as an integrity commissioner position is required, to conduct the complaint review process as a quasi-judicial review with defined timelines, evidentiary standards, burden of proof, or right to appeal. o The application of sanctions should take place through a resolution at council. o The regulation should clearly establish the right to appeal. o Possible sanctions may not be severe enough to address serious breaches. The potential sanctions as written may not have a deterrent effect on serious or repeated breaches. o Additional sanctions are specifically required in case of instances where councillors refuse to change behavior or accept sanctions. o A formal process should be established to escalate breaches to the Minister of Municipal Affairs in the case of councillors refusing to accept sanctions. This process should explicitly include an avenue for council to pass a resolution requesting the Minister to remove the councillor from office.
Review Process	- Municipalities must review its code of conduct and related bylaws at least once every four years.	- No change.	- **AUMA supported the proposed review period, as it falls at least once within each council term.**

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Community Aggregate Payment Levy Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Updated Rate	- The maximum levy rate has been increased from $0.25 per tonne of sand and gravel to $0.40 per tonne. - The proposed regulation is set to be reviewed at the latest date of December 31, 2022, when the regulation expires.	- The updated maximum levy rate has been clarified as being in force as of January 1, 2018.	- **The finalized regulation fails to account for AUMA input including:** o The maximum levy increase represents an increase of roughly 60 per cent versus the consumer price index inflation rate of 26.73 per cent over the same period.
Expiry Date	- The expiry date of the regulation has been updated from December 31, 2017 to December 31, 2022.	- No change	- **The finalized regulation fails to account for AUMA input including:** o The new rate should be regularly reviewed to ensure that it is in line with the cost of associated road maintenance.
Levy Formula	- No change	- No change.	- **AUMA supported the continued use of a transparent, simple levy formula process.**
Use of Funds	- No change	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The regulation should be updated to define the scope or nature of projects that can be funded through the levy. o Public reporting should be required on how funds collected through the levy are used. o The regulation should be updated to allow municipalities to use the levy if they are impacted by the transportation of aggregate from a neighbouring municipality, and if they own or lease a pit in another municipality.

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Council and Council Committee Meetings Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments

Definitions	- "Meeting" has been defined as:
	  o When used in a reference to a council, means a meeting under section 192, 193 or 194 of the Act or,
	- When used in reference to a council committee, means a meeting under section 195 of the Act.
		- No change.	- **AUMA supported the clarified definitions as they address concerns that other informal councillor actions such as having a conversation in a coffee shop, sitting together at a convention, or having a meal together could be construed as a "council meeting" and thus fall under restrictions for closed meetings.**
			- **The finalized regulation fails to account for AUMA input including:**
			  o Additional communications are required to illustrate to municipalities when the clarified definitions of meetings apply.

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Determination of Population Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Definitions	- Add definitions for 'non-contacted dwelling' and 'private dwellings' in DPR and Census Forms. - The proposed regulation does not include amendments to the definition of "usual residence."	- No change.	- **The finalized regulation fails to account for AUMA input including:** o Provisions for the residency of students should be amended to allow students to determine which municipality they are considered to be a resident. The current provisions are not consistent with the Local Authorities Election Act. o The current "usual residence" definition also fails to provide appropriate residence provisions for those in rural communities or with P.O. boxes, as residence in these cases is determined based on the address shown on driver's licenses.
Shadow Populations	- The proposed regulation does not include amendments to the section on shadow population. - No changes have been made to the minimum number and percentage to apply to the minister for inclusion of shadow population in the census, or the timing of the enumeration of shadow population.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The regulation should be updated to allow the counting of additional types of shadow populations including: ▪ Companies that fill rooms in a hotel for more than 30 days straight, but with different people residing in the room at different times. ▪ Hotels that are continuously occupied with different people. o Section 2.1(2) currently prevents municipalities from counting the shadow population, which is a requirement in order to determine whether a census of the shadow population can be carried out. This section should be removed so that municipalities are enabled to carry out a census of the shadow population at their own discretion. o The requirement for the shadow population to be either greater than 1,000 persons or 10 per cent of the

			population to be included as part of the official municipal census should be made more flexible. ○ The timing of the enumeration of the shadow population should be at the determination of the municipality and prorated or weighted for the year.
Census Processes	- No changes have been made to the legislated time period to conduct a municipal census apart from years in which it falls at the same time as the federal census, or the date by which municipalities must submit results to Municipal Affairs. - Municipalities will be enabled additional flexibility to conduct the census either between March 1 and May 31, or May 1 and July 31 for years in which a federal and municipal census occur during the same time.	- No change.	- **AUMA supported the flexibility to conduct the census during additional time periods for years when a federal and municipal enumeration occur during the same time.**
Section Moved to Crowsnest Pass Regulation	- Move the determination of population provisions under Section 6 of the Police Act for Crowsnest Pass to the Crowsnest Pass Regulation.	- No change.	
Census Coordinator Oaths	- Keep the oaths for Census Coordinator and Enumerator in effect in perpetuity. - Allow a person taking the oath to include the municipal office address on Municipal and Shadow Population Forms.	- No change.	- **AUMA supported the amendment updating the description of oaths for census coordinators and enumerators to make it explicitly clear that oaths and statements are in effect for life, rather than during the time of employment.**
Expiry Date	- Remove the expiry date.	- No change.	

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Intermunicipal Collaboration Framework Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
General Comments	- The ICF regulation does not provide additional clarity regarding what must or may be included in the ICF, or direction on how to develop an ICF. Rather, the regulation focuses on the arbitration process. Municipal Affairs communicated that this is the case to provide flexibility in how ICFs are formed, and to deal with the powers of the arbitrator that go beyond normal arbitration (i.e., the ability to create an ICF rather than just handle negotiations). - Municipalities are required to amend their bylaws to align with the ICF within two years, with the exception of land use bylaws. - The proposed regulation does not mention three and five year financial plans.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o Municipalities should be required to reference three and five year financial plans in ICFs. o Further clarity is required regarding the relationship between an order of the Municipal Government Board and ICFs. o As there is no specific provision for public participation in the creation and adoption of ICFs, the extent of engagement may be inconsistent across the province. This may cause difficulties when the public participation policies of municipalities in negotiations require different levels of engagement.
Exemptions	- Exempt three Improvement Districts from the ICF requirements: ID 13 (Elk Island); ID 24 (Wood Buffalo); and ID 25 (Willmore Wilderness).	- No change.	
Basic ICF Negotiation Requirements	- Supplement the current requirements set out in the MGA with the following key overarching requirements: - set out a duty to negotiate in good faith, and provide clarity about what that duty consists of; establish clear requirements relating to when a municipality wishes to propose an additional service for inclusion in an ICF; - require that all local bylaws must align with the framework, other than land use bylaws, within two years; and - set out minimum notice requirements for when a municipality wishes to amend an ICF.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The requirement for municipal representatives in negotiations to be a "senior representative" is unclear. This requirement should be structured to require both an elected official and administrative official in attendance from all involved parties. o The regulation should clarify that parties to an Intermunicipal Collaboration Framework are enabled to engage in dispute resolution to consider the addition of a new regional service to the ICF.

Powers of an Arbitrator	- Confirm the duties and powers of an arbitrator to create an ICF or resolve a dispute when municipalities have not completed an ICF by the required deadline. Key elements include: o An arbitrator must be independent and impartial, and must disclose to the parties any circumstance of which they are aware that might create a reasonable apprehension of bias. o The Minister is authorized to set the arbitrator's rates and payments, where the Minister appoints the arbitrator o Provides broad authority for the arbitrator to determine how he/she believes is most appropriate, but requires the arbitrator to convene a preliminary meeting within 21 days of their appointment. o Clarifies that the arbitrator has the power to determine the admissibility, relevance and weight of any evidence brought forward. o Authorizes the arbitrator to require the parties to produce any documents that the party possesses that the arbitrator believes may be relevant. o Clarifies the potential scope of an arbitrator's order o Requires the arbitrator to produce a record of proceedings and share it with each party. - Arbitrators will use the criteria set out in the legislation to inform their decision-making. This does not include the municipality's ability to pay. (e.g. the future land use of the area, the manner of and the proposals for future development in the area, the provision of transportation systems for the area, proposals for the financing and programming of Intermunicipal infrastructure for the area, the co-ordination of intermunicipal programs relating to the physical, social and economic	- No change.	- **The finalized regulation fails to account for AUMA input including:** o The proposed regulation does not appear to allow for the selection of a panel of arbitrators, as it solely refers to the arbitrator position in the singular. Municipalities should have the option of selecting a panel to ensure a variety of viewpoints. o Arbitrators should be required to consider the parties' ability to pay for services and infrastructure in their decision. The principle established for sharing the cost of an arbitrator should be expanded for all services determined under an ICF.

	development of the area, environmental matters within the area, the provision of Intermunicipal services and facilities, and any other matter related to the physical, social, or economic development of the area).		
Public Participation in Arbitration	- Public participation in arbitration is subject to the discretion of the arbitrator. This includes arbitration in the creation of an ICF and arbitration to resolve a dispute once the ICF is implemented, as outlined in the default dispute resolution process	- No change.	
Dispute Resolution Process	- Outline requirements for a dispute resolution process within an ICF. Key elements of that process must include: o how notice of the dispute is to be given and to who; o when the parties are to meet and the process they will follow to resolve the dispute, including, without limitation, negotiation, facilitation and mediation; o how a decision maker will be chosen and what powers, duties and functions they will have; o the decision maker's practice and procedures; o a binding dispute resolution mechanism; o how dispute resolution process costs are to be shared; o how records are maintained; o how parties and/or public are identified; and o if and how parties and/or public, will be notified and engaged in the dispute resolution process.	- No change.	

Default Dispute Resolution Process	- Establishes a default dispute resolution process for situations where the municipalities have been unable to agree on one, or would prefer to use the default process.
	- The process outlines a series of escalating dispute resolution steps – from negotiation, to mediation, and finally to arbitration.
	- The process also provides operational details, including:
	  o providing notice of a dispute;
	  o appointment of a representative to participate in one or more meetings to negotiate a resolution of the dispute; and
	  o appointment of a mediator if the dispute cannot be resolved.
		- No change.	- **AUMA supported the proposed default dispute resolution process, as it effectively includes a staged process through negotiation, mediation, and arbitration.**

Appointment of an Arbitrator	- The ability of the Minister to appoint an arbitrator under the regulation is to be delegated under the Government Organization Act.	- No change.	
Judicial Review of Arbitrator Decisions	- Establishes that an arbitrator's order is final and binding on all parties, and may only be appealed to the Court of Queen's Bench on a question of jurisdiction.	- No change.	

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Matters Relating to Assessment and Taxation Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Definitions	- The following definitions have been updated to enhance clarity: o Electric distribution system o Electric generation system o Electric power system o Electric transmission system o Farm building o Farming Operations o Machinery and Equipment o Operator o Pipeline o Railway Property o Street Lighting Systems o Telecommunications Systems o Well - Definitions as to how and when a property is to be considered "operational" have been updated for enhanced clarity.	- The definition of "regulated property" has been updated replacing "linear property" with "designated property." - The interpretation of when electric power system, pipeline, telecommunications, well, machinery and equipment, and designated industrial properties are to be considered operational have been simplified to read "on" specific dates, rather than "on and after" those dates. - The numbering of clauses has been updated to reflect lines removed in the proposed regulation.	- **The finalized regulation fails to account for AUMA input including:** o Cannabis grow operations should be explicitly defined in order to allow their assessment and taxation at market value.
Valuation Standards	- Valuation standards for regulated properties have been tied to the following associated ministerial guidelines in the regulation: o Alberta Linear Property Assessment Minister's Guidelines o Alberta Machinery and Equipment Assessment Minister's Guidelines o Alberta Railway Property Assessment Minister's Guidelines - Valuation standards for land and buildings related to machinery and equipment have been tied to the Alberta Machinery and Equipment Assessment Minister's Guidelines.	- The valuation standards for linear property have been updated in name to read "Valuation standards for linear property other than railway property." - The clause regarding equalized assessment in the City of Lloydminster has been removed.	- **AUMA has noted that issues remain regarding the assessment and taxation of abandoned well sites and has urged the province to review the issue.**

	- No changes have been made to enable abandoned wells to be assessed and taxed in the same manner as other vacant properties.		
Farm Building Assessment	- Provisions have been established for a five year phase-out of farm building taxation (currently, 50 per cent of the assessment of farm buildings is tax-free) in urban and specialized municipalities under the following scheme: o 60 per cent of the assessment will be tax-exempt for the 2018 taxation year; o 70 per cent of the assessment will be tax-exempt for the 2019 taxation year; o 80 per cent of the assessment will be tax-exempt for the 2020 taxation year; o 90 per cent of the assessment will be tax-exempt for the 2021 taxation year; and, o 100 per cent of the assessment will be tax-exempt for the 2022 taxation year. - No exception has been made to enable municipalities to assess and tax cannabis grow operations despite continued AUMA advocacy on the issue. - Farming operations have been expanded to include the production and sale of sod, as well as commercial wood lots.	- The five year phase-out of farm building taxation was included in section 22 and 27 of the proposed regulation. It has been removed from the prior (section 24 of the finalized regulation) as this was a duplication of the text in former (section 30 of the finalized regulation). The removal of text from section 24 does not constitute the removal of the farm building taxation phase-out.	- **The finalized regulation fails to account for AUMA input including:** o AUMA does not support the tax exemption for farm buildings. Farm buildings in urban areas should not be exempt as they consume municipal services such as roads, sewer, water, policing, and fire, and these costs will have to be borne by other property owners, which is unfair. o The sale and production of sod is a commercial use and should not be considered a farming operation. o Cannabis grow operations, greenhouses, and intensive agricultural operations should be given a separate classification so they are not exempted. o New provisions are required to separate out greenhouse components of horticultural and commercial space so the commercial space can be taxed appropriately.
Assessment Information	- No changes were included in the proposed regulation.	- The Assessment Information section has been renamed "Assessments and Assessment Information." - "Key factors and variables of valuation model" has been removed. - Sections regarding access to assessment information have been significantly reworked to lay out additional detail about the types of information that must be shared and the timelines for sharing them.	

Application	- A date for coming into force of January 1, 2018, establishing that the 2018 taxation year will fall under the updated MRAT regulation.	- Additional detail has been added regarding transitional provisions to ensure the dates at which they come into force are clear.	- **The finalized regulation fails to account for AUMA input including:** o The January 1, 2018, application date should be delayed for at least one taxation year given the administrative changes necessary to the assessment system to address the regulatory amendments and additions.

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Matters Relating to Assessment Complaints Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Definitions	- Various definitions have been updated, added or removed including o "Clerk" (removed as this is located in the MGA) o "Agent" and "Complaint form" (to acknowledge that complaints can be heard by a panel) o "Presiding officer" o "Panel" in reference to panels created by the Municipal Government Board.	- A clause has been added clarifying that a term defined in Part 9, 10, 11 or 12 of the Act has the same meaning when used in this Regulation. - A clause has been added clarifying the finalized Regulation does not apply in the City of Lloydminster, and the previous Matters Relating to Assessment Complaints Regulation will continue to apply in the City of Lloydminster.	
Panels	- Wording and definitions have been updated throughout the MRAC Regulation to acknowledge that complaints can be heard by "a panel of an assessment review board" rather than just the board.	- The first section labelled "Failure to disclose" in the proposed regulation has been renamed "Issues and evidence before panel." This change was already reflected in later sections in the proposed regulation and was likely an unintended omission.	
Alignment with MGA Changes	- The section regarding failure to disclose information (e.g. the exclusion of boards from hearing information that was not previously disclosed) has been amended to bring it into line with changes in the MGA. o The effect of the changes is to prevent the complainant and the assessor from using the access to information process to prolong the complaints process or gain an unfair advantage. o Similar amendments have been made to the same effect for hearings before the Municipal Government Board, and one-member assessment review boards. - The section regarding matters before the Municipal Government Board has been amended to reference changes in the MGA regarding designated industrial property (e.g. to make linear property fall under designated industrial property).	- No change.	

	- The attached schedules (forms) have been updated to be in alignment with the MGA regarding the complaint process, appeals regarding exemptions for brownfields, designated industrial properties, and the centralized assessment of industrial property.		
Private Hearings	- The proposed regulation will allow parties to request the record be sealed prior to the disclosure process.	- No change.	
Agent Authorization Forms	- Clarity has been added that agent authorization forms are required to be submitted prior to an agent contacting an assessment review board or the Municipal Government Board on behalf of a complainant.	- No change.	- **AUMA supported the requirement that the Complaint Form should be amended to require that a completed Agent Authorization Form be filed with the Complaint Form at the time of complaint filing.**
Training	- Additional training requirements have been added for the chair and any delegate of the chair of the Municipal Government Board.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o Additional training is required for board members in some locations to teach board members what a tribunal should do, and what their roles and responsibilities are.
Application	- The existing regulation (prior to January 1, 2018) will continue to apply for complaints regarding taxation years between 2010 and 2017. - The proposed regulation will apply to the 2018 taxation year and all years thereafter.	- No change.	
Review	- The expiry date has been removed from the regulation.	- No change.	

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Matters Relating to Assessment Subclasses Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments

Creation of Sub-Classes	- The proposed non-residential sub-classes to be prescribed in the regulation are:
	  o Other non-residential (all properties not classed as "vacant non-residential" or "small business" including all Designated Industrial Property)
	  o Vacant non-residential (all properties that do not have any improvements)
	  o Small business (all properties used by businesses employing less than a specific number of employees)
	- Municipalities will set by bylaw the number of employees qualifying a business as "small" so long as the number is less than 50 and a municipal business license specifying the number of employees is issued.
	- Municipal councils are not enabled to define further subclasses.
	- There is no break between light and heavy industrial sites.
	- Cannabis grow operations are not specifically defined, meaning that they remain classified as farming operations.
	- The regulation does not enable municipalities to establish sub-classes for brownfield properties.
		- A clause has been added clarifying that the subclasses can be applied in both urban and rural service areas for Lac La Biche County and the Regional Municipality of Wood Buffalo.
		- The required to have under 50 full-time employees in order to qualify for the small business subclass has been clarified to apply to businesses with under 50 full-time employees across Canada.
		- A new clause has been added enabling municipalities to determine a method for administering the small business tax, including the determination of the number of full-time employees at businesses.
			- **The clarification of the 50 full time employees requirement as applying to businesses across Canada partially addresses concerns raised by AUMA, however, confusion still exists as to whether this applies to franchises, branches of national firms, or buildings owned by "small businesses" in which units are leased to one or more large businesses.**
			- **Enabling municipalities to determine methods for calculating the number of full time employees in small businesses does not address the reality that this will be very difficult to do in practice.**
			- **The finalized regulation fails to account for additional AUMA input including:**
			  o Municipalities should have the flexibility to determine subclasses based on local conditions and needs.
			  o As Cannabis grow operations require significant municipal costs related to water, roads, and emergency services provision, they should be excluded from the farm operations exemption and taxed at a fair market rate.
			  o Municipalities should have the option of establishing sub-classes for brownfield operations, and these sub-classes should be permitted to exceed the 5:1 link in order to stimulate brownfield development.
			  o Municipalities should have the option of distinguishing between light and heavy industrial sites in separate subclasses.
			  o Municipalities are concerned that section 2(2)(a) will heavily encourage part time/contract employees rather than full time by creating an artificial incentive for businesses to have fewer full-time employees that are paid less and receive fewer benefits.

Linking Within Sub-Classes	- Councils will be permitted to set different tax rates for each sub-class; however, the "small business" tax rate must be between 0.75 and 1 times the "other non-residential" tax rate.	- No change.	- **The finalized regulation fails to account for AUMA input including:** o No further links should be established between property tax classes or subclasses**.**
Maintaining the Existing Tax Incentives	- The "machinery and equipment" tax rate will be required to be equal to the "other non-residential" tax rate.	- No change.	

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Off-Site Levies Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
General Principles	- The municipality is responsible for addressing and defining existing and future infrastructure and facility requirements. - The municipality must consult in good faith with affected stakeholders in accordance with the consultation section of this regulation. - All beneficiaries of development are to be given the opportunity to participate in the cost of providing and installing infrastructure and facilities in the municipality on an equitable basis related to the degree of benefit. - Where necessary and practicable, the municipality is to coordinate infrastructure and facilities provisions and services with the neighbouring municipality.	- A definition of "stakeholder" has been added.	- **The definition of "stakeholder" as a party that will have to pay the levy effectively addresses AUMA concerns that the lack of clarity in who should be consulted may result in a large number of appeals based on insufficient consultation.**

Determination of Methodology	- A municipality has the flexibility to determine the methodology upon which to base the calculation of the levy, provided that the methodology:
	  ○ takes into account criteria such as the area, density, or intensity of use;
	  ○ recognizes variation among infrastructure types;
	  ○ is consistent across the municipality for that type of infrastructure or facility; and,
	  ○ is clear.
	- The methodology for determining a levy for fire halls, police stations, libraries and recreation facilities may be distinct and unique from the methodology used to calculate any other levy established by the municipality.
		- A new requirement has been added for municipalities to establish methodologies that are "clear and reasonable," whereas the proposed regulation only states that they must be "clear."	- **The new requirement for methodologies to be "clear and reasonable" is highly problematic. As "reasonable" is a subjective term, this requirement has the potential to open bylaws establishing methodologies to continual appeals at great expense to municipalities.**
			- **The finalized regulation fails to account for additional AUMA input including:**
			  ○ The term "levy costs" should be clarified, as it may be construed as either the cost of infrastructure or the cost of administering a levy.

Determination of Levy Costs	- The municipality may establish the levy in a manner that involves or recognizes the unique or special circumstances of the municipality. - In determining the basis upon which the levy is calculated, the municipality must at a minimum consider:	- The wording regarding the required correlation between the levy and the benefits of new development has been changed from "there is to be a correlation" to "there must be a correlation."	- **The finalized regulation fails to account for AUMA input including:** ○ Additional clarity is required on what the correlation between the levy and the benefit of a new development should be, how it is calculated, and who

	○ a description of the specific infrastructure and facilities; ○ a description of the benefitting areas and how those areas were determined; and ○ supporting technical data and analysis, and estimated costs and mechanisms to address variations in cost over time. - The information used to calculate the levy must be kept current. - The municipality must include a requirement for a periodic review of the calculation of the levy in the bylaw imposing the levy. - There is to be a correlation between the levy and the benefits of new development. - The proposed regulation does not specify that the levy calculation must be directly proportional to the increase in services; rather, it requires that there be a correlation between the levy and the benefits of new development and leaves the determination of the levy up to the municipality.		should be making the decision, as well as whether the correlation is related to proximity, population base, or taxes.
Additional Principles and Criteria for the expanded scope (fire halls, police stations, libraries and recreation facilities)	- Additional criteria are required when determining a levy for the expanded scope of facilities. - The calculation of the levy for the purposes of the expanded scope of facilities must also include supporting statutory plans, policies or agreements that identify: ○ the need for, and benefits from, the new facilities; ○ the anticipated growth horizon; and ○ the portion of the estimated cost of the facilities that is proposed to be paid by the municipality, the revenue raised by the levy, and other sources of revenue (e.g. provincial grants).	-	- **The finalized regulation fails to account for AUMA input including:** ○ Offsite levies would be more effective and usable for municipalities if they could be applied to redevelopment and utilized to fund increased service provision on top of capital investments. ○ No further criteria are necessary for the new levy provisions under section 648(2.1), as the principles for levies under 648(2) are sufficient.

	- The municipality has the discretion to establish service levels, minimum building and base standards for the proposed facilities. - The proposed regulation does not allow for redevelopment levies; however, levies for the new services (fire halls, recreation facilities, police stations, libraries) can be to "expand" the facilities. - The proposed regulation does not enable municipalities to utilize off-site levies for services or programming.		
Intermunicipal Levies	- Not included in proposed regulation.	- A new section has been added clarifying that a consistent methodology must be used in each municipality for the purposes of intermunicipal levies.	
Consultation Requirements	- The municipality must consult in good faith with affected stakeholders in defining and addressing existing and future infrastructure and facility requirements. - The municipality must consult in good faith with affected stakeholders when determining the methodology upon which to base the levy costs. - Prior to passing or amending a bylaw imposing a levy, the municipality must consult in good faith on the calculation of the levy with affected stakeholders in the benefitting area where the levy will apply.	- A new clause has been added requiring municipalities to make available to stakeholders on request any assumptions, data or calculations used to determine the levy during the course of consultations.	
Reporting Requirements	- The municipality must provide full and open disclosure of all the levy costs and payments. - The municipality shall report on the levy annually, and include in the report the details of all levies received and utilized for each type of facility and infrastructure. - Any report referred to in this regulation must be in writing and be publicly available in its entirety.	-	- **AUMA supported the requirement for municipalities to undertake annual public reporting including the details of all levies received and utilized for each type of facility and infrastructure.**
Off-Site Levy Bylaw Appeal Requirements	- An appeal must be submitted to the MGB no later than 30 days after the bylaw imposing the levy has been passed. - If a notice of appeal does not comply with this regulation, the MGB must reject it and dismiss the appeal.	- The parties that may appeal a levy bylaw have been narrowed to include only those that are "directly affected" by the bylaw. - A new clause has been added requiring parties to set out how they are directly affected by a levy bylaw in order to appeal.	- **The new requirements regarding being "directly affected" by levy bylaws will likely reduce the load of appeals on municipalities by preventing frivolous appeals.** - **The finalized regulation fails to account for AUMA input including:**

	- Where there are two or more appeals commenced in accordance with this regulation, the MGB may consolidate the appeals, hear the appeals at the same time, hear the appeals consecutively, or stay the determination of the appeals until the determination of any other appeal. - Submitting a notice of appeal under section 10 does not operate to stay the imposition and collection of a levy. - Any levy that is received by the municipality during the appeal period or while an appeal of the levy is still to be determined by the MGB, must be held in a separate account for each type of facility, and the municipality shall refrain from the use of such levies received until the appeal has been determined		○ While AUMA does not support the ability to appeal to the MGB outlined in the Act, AUMA does appreciate that the appeal window has been made short. Many municipalities update their bylaws annually in good faith. The new requirements would open up these municipalities to appeal every year. The appeal provision should be reviewed to ensure it is not unnecessarily burdensome in these cases. ○ It is unclear whether an amendment to a bylaw would open up the entire bylaw to appeal, or just the part that was amended.
Sale of Facilities	- Not included in proposed regulation.	- A new section has been added, heavily limiting the ability for municipalities to sell facilities for which levies were collected. ○ Municipalities must now carry out consultation prior to selling such facilities. ○ Funds collected from the sale of facilities constructed using levy funds must now only be used for the purpose the levy was originally collected.	- **The new requirements regarding the sale of facilities are unnecessary and fail to take into account the changing needs of municipalities and their citizens over time. Restricting the use of funds to the purpose the levy was originally collected is particularly disconcerting, as there is no guarantee that these facilities will be necessary at the point old facilities are sold. In many cases this type of sale may happen decades later, at which point new facilities may already exist or the demand for such facilities from citizens may have changed.**

Updated March 2, 2018

Subdivision and Development Appeal Board Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
Training Requirements	- Designated SDAB officers and board members must, before being appointed as a clerk, complete a training program. - SDAB board members must, before participating in any hearing, complete a training program. - Officers and board members must complete refresher training every two years. - Existing officers and board members must complete training within six months of the regulation coming into force.	- The time limit for existing officers and board members to complete training within six months of the regulation coming into force has been extended to one year.	- **The extension of the time limit for existing officers and board members to complete training to one year after the regulation comes into force partially addresses AUMA concerns that the time limit may expire before a training program is approved and available.** - **The finalized regulation fails to account for additional AUMA input including:** o Additional clarity is required as to whether SDAB board members and clerks will have the option of attending regional training. o Additional clarity is required as to whether municipalities will have the option to institute additional training or requirements through a bylaw. o SDAB clerks should be required to take a standard provincial test to ensure that minimum standards are met. o SDAB board members should be required to sign a declaration that includes a checklist acknowledging their understanding of their role, the role of the clerk, and the general appeal process. o Section 2 will have a significant impact on smaller municipalities who may have difficulties affording the course attendance fees and maintaining certification when appeals may not be heard for several months or even years.

Reporting	- Municipalities must provide a report to the Minister noting the number of board members and clerks in their SDAB, and how many of them have either completed or are enrolled in training under the regulation.	- No change.	- **The finalized regulation fails to account for additional AUMA input including:** o The reporting requirement timeline should be clearly established in the regulation, and could align with the two-year timeframe for refresher training. o Municipal Affairs should provide a roster of qualified SDAB members to municipalities. o The requirement for smaller municipalities with infrequent appeals to report on training will be unnecessarily burdensome.
Application	- The regulation also applies to intermunicipal SDABs.	- No change.	

Updated March 2, 2018

Subdivision and Development Regulation

Key Elements	Proposed Regulation	Changes in Finalized Regulation	AUMA Comments
General	- The Subdivision and Development Regulation and the Subdivision and Development Forms Regulation have been combined into a single "Subdivision and Development Regulation."		
Interpretation	- The definition of "food establishment" has been updated to reference that the Food Regulation does not apply when a subdivision and development authority is making its decision.	-	- **The finalized regulation fails to account for additional AUMA input including:** o The definition of "food establishment" needs to be clarified for uses such as drug stores or convenience stores relative to setback distances from landfills and wastewater treatment facilities. o The setback requirements may be challenging where previously unknown abandoned landfills are discovered.
Subdivision Applications	- Wording has been amended to incorporate the Subdivision and Forms Regulation into the Subdivision and Development Regulation. - Wording has been updated to reflect changes in definitions (e.g. "Environment and Sustainable Resource Development" to "Environment and Parks," "river, stream, watercourse" to "body of water"). - Wording has been added to clarify that a copy of agreements regarding Environmental Reserve land between municipalities and landowners must be provided to the subdivision authority as part of applications. - Wording has been added to clarify that information from the Alberta Energy Regulator including the location of active wells, batteries, processing plants or pipelines within the proposed subdivision are provided with applications.	- **The requirement to send copies of applications for review under the Highways Development and Protection Act for all proposed subdivisions adjacent to or within 0.8km of a highway has been extended to 1.6km. The requirement for referrals applies to all municipalities other than cities.**	- **The expansion of referrals under the Highway Development and Protection Act for subdivisions within 0.8km of a highway to 1.6km fails to address AUMA concerns regarding a large increase in referrals and delays. AUMA had previously called for an 80km/h or less exemption to be maintained, or reduced from 80 km/h to 60 km/h as an alternative. The decision to remove the exemption and expand the referral distance to 1.6km takes the opposite direction to AUMA's advocacy.** - **AUMA supported the changes to the definitions of "body of water" and "conservation reserve."** - **The finalized regulation fails to account for additional AUMA input including:** o Further changes are required to ensure that environmental reserve provisions can be applied to wetlands and aquifer discharge and recharge areas. o Set timelines are required for the processing of applications referred to Alberta Transportation.

	- Subdivision authorities will be required to send copies of applications for review under the Highways Development and Protection Act for all proposed subdivisions adjacent to or within 0.8km of a highway, whereas previously this was only required for highways with a speed over 80km/h. - Additional clarity has been added as to when subdivision authorities are required to refer applications to the Ministry of Culture and Tourism. - Additional clarity has been added that municipalities that set their own decision-making timelines are required to adhere to said timelines.		○ The wording in section 14 restricting subdivision approval next to highways is unclear as to when prior approval of an Area Structure Plan is sufficient to not require a referral. This provision will require more referrals than previously and creates confusion over the status of Area Structure Plans ○ The list of historical resources referred to in section (5)(5)(j)(i) is described in terms of range/township/quarter section/LSD and is roughly 1500 pages long. This will require careful analysis by municipal subdivision authorities to determine whether a referral is required, resulting in potential delays and workload increases. ○ The requirement in section 10(1) to refer applications to the AER regarding permanent dwellings, unrestricted country residential, or public facilities within 1500m of a sour gas facility does not align with AER bulletin 2013- 03, which only requires referrals for permanent dwellings within 100 metres, unrestricted country residential within 500 metres, new urban density development or a proposed public facility within 1500 metres of a sour gas facility. This misalignment will result in unnecessary referrals and some missed referrals.
Subdivision and Development Conditions	- Definitions have been updated to align with other legislation, regulations, and documents. - Additional clarity has been added on how to determine setbacks from operating wastewater treatment plants and landfills.		
Registration and Endorsement	- Wording has been added to require conservation reserves to be identified as "CR" in plans of subdivision.		
Provincial Appeals	- The distance has been updated in reference to appeals of subdivision decisions to the MGB for lands within a certain proximity of historical sites.		

Application	- The proposed regulation will come into force on October 1, 2017. - The proposed regulation is set to expire on June 30, 2022.	- The expiry date has been removed from the finalized regulation. - The date of coming into force has been changed from the proposed regulation to remain as July 2002, which is the original date from the previous Subdivision and Development Regulation.	-