



Comments on the

**Modernized Municipal Government Act
Bill 21**

July 2016

NOTE: This document was created in 2014 as ARPA's submission to the provincial government's call for comments on the changes being made to the Municipal Government Act. The modernized version of the act was tabled in late May of 2016, and ARPA has reviewed how our suggestions from 2014 were met, and where further action is required. This document has been edited to include updated comment boxes to each suggested revision.

The Alberta Recreation and Parks Association (ARPA) wishes to thank the Minister of Municipal Affairs for the opportunity to provide comments, on behalf of our municipal and professional membership, regarding the review and modification of the Municipal Government Act.

ARPA is a provincial not-for-profit organization committed to building healthy citizens, communities, and environments in Alberta through recreation and parks. We envision a province that embraces and proactively uses recreation and parks as essential means for enhancing individual well-being, community vitality, economic sustainability, and natural resource protection and conservation. ARPA has been serving Albertans since 1951 and includes members such as municipal and public recreation agencies, post-secondary educators and students, corporations, mayors, reeves, councilors, and volunteers.

Issues related to the MGA have been a concern of ARPA since 2006 when ARPA challenged its membership with a strategic plan that required a focus on community development, in conjunction with community partners. ARPA produced the *"Foundations for Action – Enhancing the Quality of Life in Alberta,"* drafted by the "Vision 2015 Steering Committee." This visioning document contains the following quote on quality of life factors; "In partnership with others from the Quality of Life Sector, we (ARPA) need to create and grow the 'people climate' that Dr. Richard Florida and others champion as key to attracting and nourishing human capital. Such a climate offers quality of life and authenticity of 'place' – diverse, active lifestyle options and amenities that people in unique communities really want."

Over a decade ago, the organization foresaw the need to develop green, livable communities to attract and hold quality workers needed to develop this province's resources. The visioning report is under review for updating by the Association and is available at:

<http://arpaonline.ca/research/vision-2015>

In 2010, ARPA produced a document entitled *"The Role of Recreation, Parks and Open Space in Regional Planning – Working Guidelines Report."* The opening paragraph in the introduction of this document clearly outlines the ARPA position on the need for parks and open space. "Alberta has seen dramatic growth over the last 25 years, with population increasing by over a million people to approximately 3.5 million today. By 2026, this number is expected to reach five million. Population growth and expanding urban development has, and will have, major implications for the provision of recreation, parks, and open space (RPOS). **As population and urban growth continue, it will become increasingly important to conserve open space and create recreation opportunities in order to maintain the region's unique character, a high quality of life, and environmental quality.**"

This document foresaw the opportunity to comment on revisions to the MGA and stated the ARPA position on a number of proposed changes. These ideas were as follows:

"8.3 Changes to the Municipal Government Act

"Regional plans can also affect provincial policies. One area that ARPA and other RPOS advocates would like the Province to reconsider is policies for acquiring reserves. The current provisions in the Municipal Government Act (MGA) are no longer sufficient for supplying parkland and open space. As written, the MGA has two primary limitations. First, parkland dedication has less value in intensifying urban centres than it does for expanding communities. Secondly, the MGA is limited as a means of addressing parkland deficits in existing neighbourhoods. Even in new communities, municipal reserve land may not be sufficient to provide enough land for both parks and schools. Anecdotally, it appears that more municipal reserve land is being allocated to increasingly larger schools sites, leaving less municipal reserve for parklands.

"The Land Use Framework (LUF) states that, along with the development of new legislation to support the LUF, amending other pieces of legislation including the MGA, will be required. Thus, there is an opportunity to re-examine the MGA with the aim of:

"Increasing the aggregate amount of municipal/school reserve a municipality may claim (currently 10%).

"Redefining environmental reserve in a broader context to include natural areas, and/or simply introduce a natural areas requirement in addition to MR, SR, MSR, and ER.

"Plans for new communities should ensure that, wherever possible, environmental reserves are effective components of an ecological network.

"There are proposed amendments to the MGA that would help facilitate regional plans. These include:

"Compliance amendments require that municipal plans and bylaws and the decisions that flow from these (by subdivision authorities, development authorities, municipal planning commissions and development appeal boards) are in conformance with regional plans.

"Inter-municipal development plan amendments allow the Minister of Municipal Affairs to require two or more municipal authorities to establish an inter-municipal development plan and to define the matters to be included in, and the timeline for completion of, the plan.

"Minister's power amendments allow the Minister of Municipal Affairs to exercise additional actions to ensure compliance if a municipality does not comply with regional plans.

"Process amendments require municipalities to determine whether public consultation is necessary in amending plans and bylaws to conform to a regional plan. If the Municipal council determines that further consultation is not necessary, it may proceed without giving notice and holding a hearing."

The full document is available here: <http://s3.arpaaonline.ca/docs/RPOS-Working-Guidelines-Full.pdf>

The Canadian Parks Council (a group representing Canada's National, Provincial and Territorial Parks Systems) issued a report in 2014 entitled "Connecting Canadians with Nature." In this report, the CPC

summarizes their concern as follows, “Personal connections with the natural world are powerful. These connections are critical to our health and social well-being. They nurture our vitality and creativity, and they encourage ties with the land that are centuries old. Separation from nature, however, is an unintended consequence of our modern world. There is growing recognition that North Americans are suffering from ‘nature-deficit disorder,’ the term used to describe the adverse personal and societal impacts of disconnecting from nature.” For the full report go to:

http://www.parks-parcs.ca/english/ConnectingCanadians-English_web.pdf

The following comments focus on specific areas of the Act pertaining to the definition and collection of off-site levies, land dedicated to a municipality at the time of subdivision development, the repurposing of MR/MSR land when not required for school use, the definition of ER lands, minimum standards for MR, and a general comment of the provision of lands for trail systems.

In developing this position paper, ARPA wishes to thank the staff from the many cities, towns, rural and other areas that offered opinions to help to formulate these comments. This topic was also discussed at the associations annual Provincial Forum in panel format with general membership and stakeholders from other sectors. Alberta communities have varied and diverse economic and demographic circumstances and it is a challenge to offer comments that cover the breadth of conditions these communities face. All of the following recommendations are made regarding proposed changes to the Act. No comments are offered where changes would be unwarranted.

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Off Site Levies

Recommendation – The definition of offsite levies should be changed to include the capital funding (new development and major upgrading) of recreation and park facility infrastructure. Section 648 of the Act.

The reality is that some Alberta communities are collecting a “**voluntary contribution**” stipulated as a clause in their respective development agreements. These funds have been and are used to supplement federal and provincial grants and taxes collected locally to build infrastructure to cater to the growing population of these Alberta communities. The new residents are literally buying in to a quality of life offered by these communities when they pay these “contributions” passed on to them by the developer and the home builder – to support and sustain new and existing infrastructure

In a landmark decision in 2012, the requirement to pay this “contribution” was struck down by the courts when a developer challenged the inclusion of the clause for a bridge in an agreement put forth by the Town of Okotoks. As a consequence, some municipalities have abandoned this approach to collecting voluntary contributions for recreation and park purposes.

In the document “*Alberta’s Strategic Approach to Wellness, Health for All, Wellness for Life*” produced by the Ministry of Wellness in March 2014, the authors indicate they will

“strive to achieve the following outcomes:

- *Create communities that support health and wellness*
- *Enhance every Albertan’s quality of life*

*“Alberta has a very high standard of recreation infrastructure as a vestige of the Major Cultural/Recreation Facility Grant Program (MCR) and Community Recreation/Cultural Grant Program (CRC) of the 70’s and 80’s. Some means of funding the major maintenance and repair of these facilities, as well as the construction of new facilities and parks must be established on a fair and equitable basis. If larger urban communities, with high land development demands, are able to extract ‘voluntary’ contributions from developers while smaller rural communities with lower demands for land development, **the quality of life in rural communities with suffer.** Adding recreation facilities and parks to the off site levy definition will “level the playing field.”*

The Saskatchewan Planning and Development Act, 2007 allows for this levy to be collected in that province. The Act reads:

“169 (2) A council may impose development levies for the purpose of recovering all or a part of the municipality’s capital costs of providing, altering, expanding or upgrading the following services and facilities associated, directly or indirectly, with a proposed development:

- (a) Sewage, water or drainage works*
- (b) Roadways and related infrastructure*
- (c) Parks*
- (d) Recreation facilities”*

Re-Development Levies

Recommendation – Fees collected for re-development levies should also be used for recreation and park facility development. Section 647 of the Act.

Municipalities may need to provide for the construction **of new or sustained recreation and parks infrastructure to accommodate redevelopment especially when it involves the densification of urban areas**. As noted previously, green space helps reduce urban stress. The provision of nearby recreation facilities will contribute to the availability of healthy lifestyle options for a new urban population, as more Alberta residents and new Albertans flock to our larger centres.

UPDATE

ARPA is encouraged by the changes to Section 648 of the MGA, where the scope of off-site levies is proposed to be expanded so municipalities can use the funds to build recreation infrastructure such as community recreation facilities and libraries.

Comments below are applicable to both development and re-development levies.

We recommend:

1. That the wording of the Act be amended to read “recreation and culture facilities **and parks**.” This would be in the same spirit as The Saskatchewan Planning and Development Act, 2007 (see page four). **OR**
2. A definition of “recreation and culture facilities” be added to the Act that includes parks and open spaces

We recommend this inclusion of parks due to the many documented health and social benefits of green space.

For re-development levies, we encourage you to note that green space is especially important in those areas where pre-existing neighbourhoods are experiencing revitalization, infill or increased density.

We also believe that the application of the “30% benefitting area” requirement of the levy will result in inequitable development costs within a subdivision and throughout the municipality. This 30% does not take into account the mobility of individuals in urban settings, as they often tend to visit recreation and parks facilities outside of their immediate area. It also does not take into account that some recreation and parks amenities provided by municipalities serve community- wide and/or regional user markets. Therefore, the levy should be applied equally across the municipality.

UPDATE (continued)

It should be remembered that developers do not ultimately pay the off-site levy, but rather it is the property owner who pays this levy with the expectation that they will receive services such as recreation facilities, parks, fire halls, police stations and libraries.

The following is suggested in terms of implementation for a recreation facility and parks offsite levy:

- Offsite levies be identified and approved by municipal bylaw when new plan areas are adopted.
- For existing Approved Plan Areas, an amendment should be made to the Municipal Development Plan to enable application to any future servicing agreement, including offsite levies, regardless if it was included in the original approval of the Structure Plans.
- The offsite levy would be determined by municipalities and updated annually
- The funds go into a single municipal reserve fund that can then only be used for the recreational and parks purposes as defined by the municipality.

Dedication of MR and MSR

Recommendation – MR/MSR dedication be a minimum of 10% to a maximum of 15% with the total dedication of combined MR/MSR and PUL not to exceed 40% in any land development scenario. Sections 662, 665 & 666 of the Act.

It is apparent that **more land is needed to meet recreation needs** of most growing urban communities. Some municipalities (rural and urban) indicated the 10% dedication was enough. Some rural entities indicated cash in lieu of reserve was a better option for them in some cases where small parcels of MR scattered around rural subdivisions did not offer a recreation experience and cost a great deal to maintain. Many municipalities indicated that the demands for MSR by school divisions is very strong and in some cases school building footprints consume the bulk of the MSR lands, leaving little for community recreation space.

ARPA believes in the importance of parks to provide healthy activity options for the residents of our Alberta communities. In the draft document *“Pathways to Wellbeing, A National Framework for Recreation in Canada”* March 2014, a collaborative effort by the Provincial and Territorial Governments, the following statement is made, **“Rapid urbanization (80% of all Canadians now live in cities) means that people have less exposure to the healing power of nature.** Growing threats to the natural environment has made the role of environmental stewardship increasingly important...” This document goes on to comment, “There is a particular concern for the **missed**

opportunity of outdoor play, which has been shown to increase a child’s capacity for creativity, problem solving and emotional and intellectual development.”

The former Chief Medical Officer of Health for Alberta, Dr. James Talbot, spoke publicly about environmental factors and health, and cited research summarizing an opinion that green space benefits community health.

“Linking Childhood Obesity to the Built Environment: A Multi-level Analysis of Home and School Neighborhood Factors Associated with BMI

Environmental factors of adolescents were examined to identify connections between obesity and the built environment. Although modest, the presence of nearby fast-food outlets nearby was associated with an increased BMI, while the presence of public recreation opportunities was associated with lower BMI’s. Adjusting the access to certain characteristics of the built environment may have an impact on adolescent obesity.”

In a study of stress in urban areas by J Roe et.al. 2013, it was found that, “Results from analyses showed that living in areas with a higher percentage of **green space is associated with lower stress**, confirming the earlier study findings.” See more at:

<http://www.hphpcentral.com/research/green-space-and-stress-evidence-from-cortisol-measures-in-deprived-urban-communities#sthash.o3OuDOUC.dpuf>

UPDATE

This specific recommendation was not spoken to. ARPA continues to support this recommendation.

Repurposing MR and MSR

Recommendation – Do not permit the reclassification of MR lands for CSR purposes. (671 (2.1))

Many Alberta communities have less green space than is required to provide healthy options for residents and visitors to spend time outdoors and interact with nature. Compounding this deficiency is the potential repurposing of existing green space to other uses. **Loss of urban green space is only reversible with great political and community will and a great deal of investment.** While it may be relatively easy to reclassify MR or MSR to be used for fire halls, police stations and affordable and/or social housing, once that land is developed it is gone in perpetuity. This is currently an issue in Edmonton, where a battle is brewing between unhappy residents, losing green space, and City Council seeking to provide non-profit housing for seniors and the homeless. See this article from the Edmonton Journal:

<http://www.edmontonjournal.com/news/edmonton/Residents+angry+plans+develop+vacant+Edmonton+school/9860070/story.html>.

If our cities are to last hundreds of years, open space and parkland must be preserved for future generations. It may be politically expedient to meet a short term need for land by repurposing MR or MSR, but it is not in the long term interest, or the future well-being of Albertan's at large.

As an example of the difficulty and cost of acquiring land for green space in a mature urban centre, the City of Zurich, Switzerland, purchased a factory building to be torn down to provide "green space" in a redevelopment zone where war time factory buildings were being converted to residential and technology lofts. It was verbally reported to the author that the purchase price was the equivalent of \$5000 CAD per square meter in 2012. That converts to \$50,000,000 per hectare (slightly larger than a CFL football field). This land evaluation is consistent with a report entitled "Real Estate and Land Price Models for UrbanSim's, Greater Zurich", by Michael Lochi, July 2006. In 2006 that document estimated Zurich land prices at between \$1200 and \$2600 per square meter.

If lands are converted from green space to other uses, reverting back to green space will most likely be cost prohibitive.

Establishment of CSR During Land Development

Recommendation – Establish CSR locations at the time of land development to alleviate the need for re-allocation of MR/MSR lands at a later time. Assignment of these lands should be part of the 30% PUL allocation for land.

To alleviate the need for the reclassification of MR/MSR lands for CSR purposes, ARPA suggests an approach that allows the municipality to plan sites for community services such as fire halls and police stations at the land development stage – outside the scope of parks and recreation land dedication. ARPA does not hold the view that urban MR/MSR lands should be reduced in size or in function in any way at any time.

UPDATE

These recommendations were not spoken to. ARPA continues to recommend expansion of MR, and is concerned about the proposed broadening of the uses of MR land, where it can be used for infrastructure such as recreation facilities, police stations, fire stations or libraries, resulting in a loss of greenspace.

ARPA recommends the deletion of the opportunity to reclassify MR/MSR land for CSR purposes, as is currently in the legislation.

Numerous research studies document how the health and social benefits of greenspace support the development of healthy, active and socially-tolerant communities.

In those instances where the MR/MSR designation is changed, we believe public consultation and transparently in municipal decision-making are critical.

Definition of ER

Recommendation – Define ER to be environmentally significant lands. Add a new category for undevelopable lands such as flood prone lands and unstable slopes. Strengthen the municipality's ability to enforce development restrictions on these lands. Section 664 of the Act.

Several comments received from municipalities in the preparation of this report indicated the definition of ER is too broad and the term “environmental reserve” is not appropriate for some of the lands acquired under the Act. Further, in light of the recent flooding in southern Alberta, there was the observation that certain lands need to be clearly and unequivocally removed from the pool of lands available for development. A UDL or Undevelopable Land designation should be applied to lands that fall within categories that prevent any consideration for development now, or in the future. This category of land would not be subject to the terms of section 676 of the Act.

Having established such a distinction, the term ER would be used to define lands that are environmentally significant or qualify as Natural Areas. Stands of native trees worthy of conservation, stream courses, and setbacks from the bed and shore of lakes and rivers would also qualify under the ER definition.

Municipalities must be given greater authority to manage ER lands and UDL lands and to impose penalties for those who damage, destroy or encroach upon ER or UDL. There is a general consensus that the powers currently bestowed upon municipalities are not adequate to manage the ER lands that have been established to this point in time.

Creation of CR (New)

Recommendation – Part 17.2 and related sections

- Ecosystems be planned and implemented at the regional scale and become an integral cooperative regional planning effort to protect wildlife, flora and fauna.
- Municipalities be given the legislative authority to protect mature trees and wetlands on lands slated for development in both new plan areas and in infill areas where mature trees are at risk.
- Establish a provincial environmental impact assessment process for decisions regarding CR lands.

UPDATE

ARPA appreciates that the intent of our original ER recommendation was met by the creation of the Conservation Reserve (CR) category. However, ARPA feels CR does not sufficiently protect the land, as it adheres to a “willing seller - willing buyer” philosophy. This allows for a single decision to cause the loss of the entire value of a conservation asset.

For example, if a migratory path passes through three municipalities, and municipality “A” agrees to preserve the path, but municipality “B” and “C” do not, the value of the conservation reserve could be entirely lost. This decision cannot be made on a lot-line basis. It must be decided at the inter-municipal level.

We would also recommend a clearer definition outlining the distinction between ER and CR.

Minimum Standards for MR Lands in a Residential Setting

Recommendation – Where land development is creating residential subdivisions, municipalities must accept a minimum of 5% of those lands taken as MR, with the remaining 5% (or more) taken as cash in lieu to be used for recreation purposes.

It has been noted that some municipalities are so desperate for growth they are willing to approve residential subdivision plans with limited MR/MSR land dedication and minimal cash in lieu. This means there could be no parks or trails in these new subdivisions! While the homes in these areas may be seemingly suited to the current marketing demographic, in the future, these developments will be the source of problems including lack of community pride and engagement, unhealthy lifestyles and loss of touch with nature. There must be legislation in the Act, or some form of land management policing implemented to prevent this short-sighted land development.

These standards would not apply to non-residential subdivisions where the exclusion of MR in favour of cash in lieu is commonplace.

UPDATE

This recommendation was not spoken to. ARPA continues to support this statement. However, we would now modify the recommendation to be aimed only at “smaller urban and rural municipalities.”

Recommendation – Where land development is creating residential subdivisions, small urban and rural municipalities must accept a minimum of 5% of those lands taken as MR, with the remaining 5% (or more) taken as cash in lieu to be used for recreation purposes.

This amendment was made because in some municipalities, the creation of country residential estates and small-acreage residential properties, and the requisite MR allocation, produces small pockets of MR that are not sufficient for MR use. The above recommendation should therefore only be implemented in these specific communities and situations.

Legislation in Support of Trail System Development

Recommendation – The wording of the Act should support the creation of trail systems in urban areas.

While ARPA has no specific wording or sections of the Act where changes would be recommended, the Association feels there must be a greater emphasis in the wording of the Act to encourage the creation of more trail systems for **active transportation** (cycling and walking), especially in urban areas. Some municipalities have indicated that lands for trail allocation are taken as part of the transportation land dedication during land development as they serve a transportation function.

In light of the emphasis on healthy lifestyles, we see this push for active transportation as an extension of the policies outlined in “*Alberta’s Strategic Approach to Wellness, Health for All, Wellness for Life*” produced by the Ministry of Wellness in March 2014. For the full report go to:

<http://www.health.alberta.ca/documents/Strategic-Approach-Wellness-2013.pdf>

UPDATE

The wording of the act did not sufficiently support the creation of trail systems and the importance of active transportation. ARPA continues to make this recommendation.

Orientation Training (New)

Recommendation – ARPA supports the adding of Orientation Training for new council members, but suggests that ongoing education and professional development be required for all council members. Section 201.1 (1) of the act*

The environmental, social, and economic challenges facing municipalities requires council members stay informed and updated on new research, best practices, etc.

*We recommend that similar requirement be applied to full-time career municipal employees