

MGA Review: Consultation Survey

Preamble to Survey:

The Department of Municipal Affairs and Housing is undertaking a review of the Municipal Government Act (MGA).

These proposed topics are based on feedback from various sources, including NSFM and AMA, during previous MGA Review (2016-18), as well as municipal and internal departmental requests.

We would like to gather your municipality's feedback on these questions relating to the various items through this survey. Your responses will be used by the Department to evaluate the efficacy of the proposed changes, implications, and details of implementation before any changes are advanced.

We ask that you respond to the survey on behalf of your municipality or organization.

If you do not finish the survey in its entirety before submitting, you will be able to go back in and resume your response later, if on the same device. The survey will be open until October 7, 2022.

If you have questions about the survey, please email us at DMAH-Consultation@novascotia.ca.

- 1. Which municipality or organization are you responding on behalf of?**
(TEXT BOX – Allow to write in)

Page 2: ELECTRONIC NOTICE

Currently in the MGA, municipalities are required to provide public notice for various items in a newspaper circulating in the municipality. To modernize public notice requirements, municipalities have requested the ability to post notices electronically.

The contemplated change is to authorize the posting of public notices to a publicly accessible website as an alternative method. This is intended to enable notice to be provided via alternative means other than a newspaper.

2. Does your municipality/organization support a proposed change to allow for the posting of public notices on a publicly accessible website as an alternative to a newspaper?

- Yes
- No
 - Why not? (TEXT BOX - Allow write in)

Posting on a website may be a barrier to some residents without access to the internet or municipal units without a website.

3. Do you anticipate this being a concern for your municipality?

- Yes
- No

4. When providing public notice through a website, would you also like to see a requirement to physically post the notice in other prominent locations accessible to the public (i.e. public recreational centres, library, city hall, etc.)?

- Yes
- No
 - Why not? (TEXT BOX - Allow write in)

5. Please indicate, by checking all that apply, if you support the posting of public notice on a website for the following items:

- Public Hearing for Sale or Lease of Municipal Property (Section 51)
 - Yes
 - No
- Special purpose tax accounts (Section 83)
 - Yes
 - No
- Sale of Distressed Goods (Section 124)
 - Yes
 - No

- Tax Sale Advertisement (Section 142)
 - Yes
 - No
- Adoption of By-laws (Section 168)
 - Yes
 - No
- Requirements for adoption of planning documents (Section 205)
 - Yes
 - No
- Public hearing for planning documents (Section 206)
 - Yes
 - No
- Notice of sale land no longer needed for parks, playground, or public purposes (Section 273)
 - Yes
 - No
- Notice of Public Hearing for Street Closures (Section 315)
 - Yes
 - No

6. Are there any items not included in the list that you feel strongly should be included?
(TEXT BOX – Allow to write in)

Page 3: NOTICE PERIOD

7. If public notice can be provided on a public website, do you feel the current notice period of 14 days should be changed for any of the following items?

Please select whether you feel the 14-day notice period should be less days, more days, or is sufficient as is.

- Public Notice for Sale or lease of municipal property
 - Less than 14 days
 - Sufficient
 - More than 14 days

- Special purpose tax accounts
 - Less than 14 days
 - Sufficient
 - More than 14 days

- Adoption of By-laws
 - Less than 14 days
 - Sufficient
 - More than 14 days

- Public hearing for planning documents
 - Less than 14 days
 - Sufficient
 - More than 14 days

- Notice of sale land no longer needed for parks, playground, or public purposes
 - Less than 14 days
 - Sufficient
 - More than 14 days

8. Do you have any additional feedback to share relating to public notice periods?
(TEXT BOX – Allow to write in)

Page 4: ELECTRONIC DELIVERY AND RECEIPT OF TAX BILLS AND PRELIMINARY NOTICES OF SALE

Currently, Section 117(2) and 138 of the MGA requires that municipal tax bills must be served either in person or mailed to the address shown on the assessment roll. If a municipality wishes to sell a piece of land for tax purposes, they are required to send a notice to the property owner by mail advising that the property is in arrears and that tax sale procedures will be commenced, unless the arrears are paid within 14 days.

The contemplated change is to amend the MGA to allow municipalities to deliver tax bills and preliminary notices of sale through alternative methods, including through electronic means, if the recipient has consented to that method of service (the recipient will still have the option for in-person or mail delivery).

9. Does your municipality/organization support this proposed change to enable electronic delivery and receipt of tax bills and preliminary notices of sale?

- Yes
- No
 - If not, why? (TEXT BOX – Allow to write in)

10. Do you have any concerns with electronic delivery and receipt for tax bills and preliminary notices of sale?

(TEXT BOX – Allow to write in)

Page 5: DIGITAL SUBMISSION OF PLANNING DOCUMENTS

Currently in the MGA, Section 208, planning documents* are subject to review by the Director of Planning with the Province of Nova Scotia. Municipalities, through the Clerk, are required to submit four certified copies of the documents to the Director. If not subject to review by the Minister, the documents are approved and two certified copies of the documents are returned to the Municipality. If subject to review by the Minister, the Minister must return two certified copies of the documents either approved, amended, or rejected.

*Planning documents are defined by the Act as: a municipal planning strategy (MPS), a land use bylaw (LUB) adopted to carry out an MPS, a subdivision by-law, or amendments to the aforementioned documents.

The contemplated change is to modernize the planning document review process by enabling the process to be done digitally (e.g., submitted via email to the department).

11. Does your municipality/organization support a proposed change to allow these documents to be submitted and returned digitally?

- Yes
- No
 - If no, why not?

12. Do you have any concerns with digital submission of your planning documents?

(TEXT BOX – Allow to write in)

Page 6: TERMS OF DEVELOPMENT AGREEMENTS

Currently, the MGA lists what terms must and what may be contained in a development agreement.

We have heard from municipalities that there is a desire to expand this list, for example, the ability to specify where parkland can be.

13. Are there additional terms (e.g., matters contained in a subdivision by-law) your municipality feels should be included in the list of content for a development agreement that are not currently captured?

- Yes
 - If so, please indicate what additional terms you would like to see? (TEXT BOX- Allow write in)
- No

14. Do you have any additional feedback to share on this topic?
(TEXT BOX- Allow write in)

Page 7: OFF-SITE IMPROVEMENTS OR CASH IN LIEU NECESSARY TO SUPPORT A DEVELOPMENT

Recently, a change was made to the HRM Charter to enable the ability to require off-site improvements or cash-in-lieu contributions through a development agreement where the improvements are necessary to support a development (e.g., requiring existing park upgrades, transportation facilities, undergrounding of power).

These are often limited to the site itself which are not always the best or most practical areas for these improvements.

15. Would you be supportive of this proposed change?

- Yes
- No
 - If not, why? (TEXT BOX - Allow write in)

16. Would your municipality also support the ability to allow a lien to secure these off-site improvements?

- Yes
- No
 - Why not? (TEXT BOX - Allow write in)

17. Do you have any additional feedback to share on this topic?

(TEXT BOX- Allow write in)

Page 8: NON-SUBSTANTIVE AMENDMENTS TO A DEVELOPMENT AGREEMENT

Currently in the MGA, amendments to development agreements are heard and approved by Council. Amendments can be non-substantive or substantive. A development agreement may identify the matters which are not substantive or matters that are substantive. Amendments to a development agreement that are considered non-substantive do not require a public hearing.

Changes were made to the HRM Charter to allow a Development Officer to approve non-substantive amendments to a development agreement to expediate the development approval process.

The contemplated changes would allow non-substantive amendments to development agreements to be approved or refused by the Development Officer, where the development agreement has already been approved by Council. This would not apply where amendments are a combination of both substantive and non-substantive.

18. Does your municipality/organization support this proposed change to allow a Development Officer to approve or refuse non-substantive agreements to development agreements?

- Yes
- No
 - If not, why? (TEXT BOX - Allow write in)

19. Do you have any feedback to share on this proposed change? (TEXT BOX - Allow write in)

Page 9: PROVISIONAL APPROVAL OF A DEVELOPMENT AGREEMENT/SUPPORTING AMENDMENTS

Changes were made to the HRM Charter to allow Council to provisionally approve a development agreement or an amendment to a development agreement during the same public hearing as Council passes supporting amendments to a municipal planning strategy, a land-use by-law and/or municipal planning strategy and the supporting amendment to the land-use by-law to improve efficiency during the development approval process.

A similar change to the MGA is being contemplated. This would allow the development agreement to be considered fully approved when the amendment to the MPS or LUB takes effect. The appeal period would not be affected by the change.

20. Does your municipality/organization support this proposed change for provisional approval?

Yes

No

○ If no, why not? (TEXT BOX)

21. Do you have any feedback to share on this proposed change?

(TEXT BOX - Allow write in)

Page 10 – TRANSFER OF LAND OR CASH IN LIEU BASED ON DENSITY

Requirements for the transfer of land or equivalent value (e.g., cash-in-lieu) for parks, playgrounds, and similar public purposes are permitted under the legislation as part of a subdivision by-law. The land transferred does not exceed 5% of the area of the lots shown to be approved on the final plan of subdivision or 10% of the area of the lots shown to be approved on the final plan of subdivision if provided in the MPS.

We have heard that the legislation is limited to the subdivision process and does not consider the transfer of land or cash in lieu for multi-unit developments. This is understood to mean residential buildings containing multiple dwelling units (e.g., apartment buildings, condominiums).

22. Is your municipality/organization seeing increasing pressure on recreational and open space assets from the addition of multi-unit residential developments?

- Yes
 - If yes, please describe. (TEXT BOX - Allow write in)
- No

23. Would your municipality be interested in having the ability to require a parkland dedication contribution (land or cash-in-lieu or a mix of both) as part of the approval process of multi-unit residential developments?

- Yes
- No

24. Do you have any additional feedback to share with us on this topic?
(TEXT BOX - Allow write in)

Page 11- SITE PLAN APPROVALS – EXTERNAL APPEARANCE OF STRUCTURES

Currently, under the MGA, site plan approvals may deal with several external elements of a development; however, it does not directly reference controls on external appearance of structures. This can currently be done for as-of-right development and for development agreements, both through the application of standards set out in the land use by-law.

Architectural controls are currently implemented by some municipalities through their LUB.

The contemplated change is to include external appearance of structures in the list of topics that a site plan may deal with.

25. Does your municipality/organization support this proposed change to include external appearance of structures in the list of topics that a site plan may deal with?

- Yes
- No
 - If so, why? (TEXT BOX - Allow write in)

26. Does your municipality/organization find the legislation a barrier to implementing external appearance controls on site plans?

- Yes
 - If so, please explain (TEXT BOX - Allow write in)
- No

27. Do you have any additional feedback to share on this topic?

(TEXT BOX - Allow write in)

Page 12: SITE PLAN APPROVALS – PERFORMANCE BONDING

Currently under the MGA, a development agreement may contain terms related to security or performance bonding. We have heard that municipalities would like to allow for performance or security bonding as part of site plan approval.

Performance bonding, for example, may allow a developer to secure an occupancy permit even though landscaping cannot be completed until spring. This commitment is performance bonded.

28. Does your municipality/organization support a proposed change to allow for performance bonding for site plan approvals?

- Yes
- No
 - If no, why not? (TEXT BOX - Allow write in)

29. Do you have any additional feedback to share on this topic?

(TEXT BOX - Allow write in)

Page 13: SITE PLAN APPROVALS – APPEALS

A property owner or applicant may make an appeal to a site-plan approval or refusal. The process and notification procedures and the rights of appeal are the same as those as variance. Council may make any decision that the development officer could have made whether it be to uphold or overturn the decision of the development officer.

We have heard that some site plan appeals are delaying the development approval process as there is a lack of clarity in the legislation as to what can be appealed.

30. Is your municipality/organization experiencing issues related to the site plan appeal process?

- Yes
 - If yes, please describe these issues? (TEXT BOX - Allow write in)
- No

31. Do you feel clarity is needed in what property owners can appeal related to site plans?

- Yes
 - If yes, what specifications for the appeal process would be valuable to residents in helping them determine what is and is not grounds for appeal?
(TEXT BOX - Allow write in)
- No

32. Are there other issues or feedback related to site plans you would like to tell us about?

(TEXT BOX - Allow write in)

Page 14 - INSTRUMENTS OF SUBDIVISION

Currently, subdivision by instrument is authorized in the MGA and the *Provincial Subdivision Regulations*. Subdivision by instrument permits owners to request subdivision approval without the involvement of a surveyor.

The contemplated change is to repeal instruments of subdivision and no longer allow lots to be subdivided via this tool.

33. Does your municipality/organization support this proposed change related to instruments of subdivision?

- Yes
- No
 - If so, why not? (TEXT BOX – Allow to write in)

34. Do you have any additional feedback to share with us on this topic?

(TEXT BOX – Allow to write in)

Page 15 - RETROACTIVITY OF DEEMED EASEMENTS PRIOR to 1998

Under Section 280 (2) of the MGA, the owners of lots shown on a plan of subdivision as abutting on a private right of way are deemed to have an easement over the private right of way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone, and other services to the lot.

The contemplated change is to amend the MGA by clarifying that deemed easements on a plan of subdivision are retroactive prior to the enforcement of this section.

This amendment will benefit those who currently do not have easement access and clear up confusion for deeds that were established before the section was proclaimed (i.e., 1998).

35. Does your municipality/organization support this proposed change relating to deemed easements

- Yes
- No
 - If no, why not? (TEXT BOX – Allow to write in)

36. Do you have any additional feedback to share with us on this topic?
(TEXT BOX – Allow to write in)

Page 16 - SELLING OR LEASING PROPERTY BELOW MARKET VALUE

Currently, under Section 51 of the MGA, municipalities may sell property at a price less than market value to a non-profit organization that the Council considers to be carrying out an activity that is beneficial to the municipality.

The proposed change is to expand this municipal power to permit municipalities to sell or lease below market value for additional purposes, such as the purpose of increasing affordable housing or the transfer of property between governments for public infrastructure. This may include schools, roads, transportation infrastructure (e.g., bus, train stations), and hospitals.

37. Does your municipality/organization support the selling or leasing of property below market value for the following additional purposes? Check the categories you support.

- To increase the availability of affordable housing in the municipality
- To a public entity for the purpose of public infrastructure (e.g., schools, roads, hospitals)
- None of the above
- Other, please specify. (TEXT BOX)

38. Do you have any concerns or feedback on enabling the selling or leasing of property below market value to share with us?

(TEXT BOX – Allow to write in)

Page 17 – ADDITIONAL FEEDBACK

39. Does your municipality/organization have other issues we should be aware of as part of the MGA Review that you would like to see addressed?

(TEXT BOX)

End of Survey:

Thank you for your participation.

We appreciate you taking the time to provide responses to our questions. Understanding your perspective is important as we look to modernize and improve the MGA.

Please note, the Department does not guarantee that these proposed changes will be advanced as changes to the MGA.

The Department will summarize and provide a report back on what we heard following the close of the survey to participants. If you have any further questions, please contact DMAH-Consultation@novascotia.ca