

FAQs on Municipal Governance

The Ministry of Government Relations - Advisory Services and Municipal Relations has developed this quick reference guide of common governance questions they receive from local governments. If you'd like more information, please visit the Government of Saskatchewan website at www.municipal.gov.sk.ca or consult legislation, which is available for free download at the Office of the Queen's Printer at www.qp.gov.sk.ca.

General

Can a mayor or reeve vote on resolutions at a council meeting?

Yes! In fact, they are required by legislation to vote. Only in the case of a pecuniary interest is the mayor or reeve to abstain from voting. Remember that abstaining from voting when not required to do so by legislation is deemed as a vote against a resolution and a tie vote means the resolution is defeated.

When paying their property taxes, can a taxpayer specify that they are only paying the municipal portion of their taxes, but not their education taxes?

No. Under section 273 of The Municipalities Act, the municipality must first apply a tax payment received towards any arrears that may exist, and then divide the remainder of the payment in proportionate amounts to all taxing authorities for whom the municipality collects taxes.

Can a municipality discontinue water service if a utility bill remains unpaid?

Yes. Section 29 of *The Municipalities Act* states that a municipality that provides a public utility service may, for any lawful reason, discontinue the service in accordance with the municipality's bylaws and policies. Council will want to ensure you have provided advance notice that you will be shutting off the service if the bill remains unpaid.

Is a municipality required to tender a construction project?

Tendering is always good procurement practice; however, there are circumstances when a municipality is legislatively obligated to go to tender. Under the New West Partnership Trade Agreement municipalities are required to tender purchases of goods and/or services of \$75,000 or more and construction contracts of \$200,000 or more. All municipal procurement at or above these thresholds must be posted on the SaskTenders website at www.sasktenders.ca.

When the administrator is away, may the mayor or reeve and deputy mayor or deputy reeve sign cheques for the municipality?

Cheques and other negotiable instruments must be signed by the administrator and at least one other person designated by council. Council shall designate, by resolution, the member or members of council or other individual who shall have signing authority with the administrator.

Subject to council approval, an administrator may delegate his/her cheque signing authority to any employee of the municipality.

Does a municipality have a duty to maintain its roads in good condition?

The municipality has a statutory duty to maintain its roads in a reasonable state of repair. Based on location and usage, the council also sets the level of service on the roads. A street or road is to be considered in a reasonable state of repair if those who use it can, exercising ordinary care, do so with safety.

Can a council have an 'in camera' session prior to a council or council committee meeting?

All council and council committee meetings must be conducted in public. Closed meetings should only be held when the requirements of Section 120 of *The Municipalities Act* are met. Under Section 120, councils or committees may close all or part of their meeting to discuss long-range or strategic planning, and matters exempt under *The Local Authority Freedom of Information and Protection of Privacy Act*.

When an ‘in camera’ session requires a decision, that decision must be made in the public forum and is recorded as a resolution. Just because legislation allows you to go into a private session, does not mean that you must.

Can a municipality terminate water service at a residence for non-payment of the account?

A municipality may in accordance with its bylaws, resolutions or policies for any lawful reason discontinue providing a public utility service after giving reasonable notice of its intention to do so. It may then remove the utility system to discontinue the service.

Is a municipality required to mail a copy of the audited financial statements to its taxpayers?

There is no requirement in legislation to mail a copy of the audited financial statement to taxpayers of a municipality. Section 185(3) of *The Municipalities Act* requires a municipality to publicize its financial statements, or a summary of them, and the auditor’s report of the financial statement, in the manner the council considers appropriate by September 1 of the year following the financial year that was audited. If council considers it appropriate, it may mail a copy of the audited financial statement, or a copy of a condensed audited financial statement, to its taxpayers. Council may place a notice in a newspaper circulating in the municipality setting out a condensed audited financial statement. Or, council may publicize its financial statement in any other manner it considers appropriate. The public may obtain a copy of the entire audited financial statement from the municipal office.

What information is included in the advertised Tax Enforcement List?

Municipalities provide notice of intention to undertake tax enforcement proceedings by publishing the Tax Enforcement List. This notice should contain the same information which will be required to register the tax lien with Information Services Corporation such as the legal description of the land, including title number(s), along with the tax arrears and the costs.

Publishing names may be viewed as a contravention of *The Local Authority Freedom of Information and Protection of Privacy Act*.

The advertisement shall also contain a notification that unless arrears of taxes and costs are paid sooner, the treasurer will register a tax lien against the property upon expiration of a sixty-day period from the date of the advertisement.

What is a council’s responsibility respecting road conditions?

A municipality has the direction, control and management of all streets within the municipality and all roads, other than provincial highways. A municipality shall keep every street or road in a reasonable state of repair, having regard to:

1. the character of the street or road; and
2. the area of the municipality in which it is located.

A street or road is considered to be in a reasonable state of repair if those who use it can, exercising ordinary care, do so with safety.

Building Code

Who is responsible for ensuring compliance with the building code?

The owner as defined in *The Uniform Building and Accessibility Standards Act* (UBAS Act).

Why is the local authority (municipality) responsible for enforcement of the building code?

The responsibility of municipalities is based on common law practice that expects a local government to have a “duty of care” to the people who live, work and travel through the geographical area.

Should a municipality have an approved building bylaw?

Yes, an approved building bylaw provides for the control of building construction and allows the municipality to issue building permits, collect building permit fees and inspect construction.

Can an existing building bylaw become outdated and require updating?

Yes, old bylaws adopted by municipal council before *The Uniform Building and Accessibility Standards Act* became effective on June 6, 1988, should be updated. All new building bylaws and amended building bylaws, must be submitted for ministerial approval.

Is it difficult to obtain approval of a building bylaw?

No. Municipalities can simply submit two certified true copies of adopted bylaws to the Building Standards and Licensing Branch. Municipalities may also submit draft copies for comment before municipal adoptions. The turnaround is approximately 30 days.

What is the role of the building official on behalf of the local authority?

The building official provides services to the municipality for plan review, construction inspection and enforcement in accordance with *The Uniform Building and Accessibility Standards Act*, regulations and the conditions of a building permit.

Can a building official work for more than one local government?

Yes, two or more local authorities can either appoint a building official separately or enter into an agreement for building official services to be provided to both authorities.

Does The Uniform Building and Accessibility Standards Act provide conditions where the local authority can take enforcement action in relation to dilapidated buildings?

Yes, *The Uniform Building and Accessibility Standards Act* does provide authority to a building official to write an order to the owner of buildings that are in a ruinous or dilapidated state.

Servicing Agreements

Our lagoon is running out of space, what can we do?

Municipalities have the authority to require a servicing agreement with subdivision applicants. These agreements allow municipalities to collect money for the capital costs of infrastructure needed to support the subdivision and future growth, such as lagoon expansion, water lines and pump houses.

What is a servicing agreement and what does it do?

A servicing agreement is a legal contract that a municipality may require with a subdivision applicant. Under the agreement, a municipality accepts long term responsibility for maintaining the infrastructure in a new subdivision in exchange for the developer installing that same infrastructure needed for the subdivision. A servicing agreement is a method to address the capital cost of new infrastructure that services a subdivision without increasing taxes.

What can be included in a servicing agreement?

The capital costs of infrastructure directly or indirectly related to a subdivision. A servicing agreement may require a developer to construct on-site infrastructure such as roads, water lines, sewers, sidewalks and lighting.

The agreement may also require a developer to pay fees for upgrading off-site facilities such as water reservoirs, sewage lagoons and roads located outside the area being subdivided. Off-site fees can also be collected for the alteration, expansion or upgrade of park space and recreation facilities that may directly or indirectly serve the area being subdivided. The municipal costs for planning, engineering, legal and administration for the specific subdivision can be included.

Servicing agreements cannot be used to collect fees for the maintenance or operation of any constructed infrastructure.

How does the calculation of off-site fees work?

Off-site fees must reflect the municipality's actual capital costs associated with providing various services. For example, a municipality may require a new sewage lagoon to accommodate future growth. The total cost of the upgrade is proportioned among existing and expected development that will use the lagoon. Developers can then be required to pay a corresponding off-site fee for each proposed lot.

The money collected by the municipality cannot be used as general revenue and must be placed in a specific reserve or trust account to be withdrawn only for the specified construction project.

What about development levy agreements? How are these different from servicing agreements?

Both are tools to help recover the costs of development but there are a few important things to consider:

1. Servicing agreements are used when development includes the subdivision of land.
2. Development levy agreements are used when development does not include the subdivision of land.
3. Development levy agreements can only be done if the municipality has a development levy bylaw.

Are there examples available on the ministry's website?

Yes! Along with examples, there are information sheets available at www.municipal.gov.sk.ca. Ministry staff is also available to answer any questions regarding servicing agreements.