COURT FILE NUMBER	2501 01001
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	STEPHEN ROSS, LESLIE SKINGLE, BRIAN TALBOT, DAVID TAYLOR, RALPH YOUNG, DEVONIAN DEVELOPMENT CORPORATION, and THREE SISTERS MOUNTAIN VILLAGE PROPERTIES LTD.
RESPONDENT	TOWN OF CANMORE
DOCUMENT	**VOLUME OF LEGISLATION AND SECONDARY SOURCES OF THE RESPONDENT FOR THE HEARING SCHEDULED ON APRIL 15, 2025**

Clerk's Stamp

JUDICIAL CENTRE OF CALGARY
FILED DIGITALLY
2501 01001
Apr 7, 2025
8:47 AM
CLERK OF THE COURT

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File No.: 104279-021-MES

TABLE OF LEGISLATION AND SECONDARY SOURCES

Statutes

Secondary Sources

Province of Alberta

MUNICIPAL GOVERNMENT ACT

Revised Statutes of Alberta 2000
Chapter M-26

Current as of January 1, 2025

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
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(c) has the functions that are described in this and other enactments.

1994 cM-26.1 s5

Natural person powers

6 A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

1994 cM-26.1 s6

Part 2
Bylaws

Division 1
General Jurisdiction

General jurisdiction to pass bylaws

7 Subject to section 7.1, a council may pass bylaws for municipal purposes respecting the following matters:

(a) the safety, health and welfare of people and the protection of people and property;

(b) people, activities and things in, on or near a public place or place that is open to the public;

(c) nuisances, including unsightly property;

(d) transport and transportation systems;

(e) businesses, business activities and persons engaged in business;

(f) services provided by or on behalf of the municipality;

(g) public utilities;

(h) wild and domestic animals and activities in relation to them;

(i) the enforcement of bylaws made under this or any other enactment, including any or all of the following:

(i) the creation of offences;

(ii) for each offence, imposing a fine not exceeding $10 000 or imprisonment for not more than one year, or both;

(iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll or charge that

is associated with the conduct that gives rise to the offence;

(iv) providing that a specified penalty prescribed under section 44 of the *Provincial Offences Procedure Act* is reduced by a specified amount if the penalty is paid within a specified time;

(v) providing for imprisonment for not more than one year for non-payment of a fine or penalty;

(vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;

(vii) providing for inspections to determine if bylaws are being complied with;

(viii) remedying contraventions of bylaws.

RSA 2000 cM-26 s7;2022 c5 s2

Face mask and proof of COVID-19 vaccination bylaws

7.1(1) Subject to subsections (5) and (6), on the coming into force of this section, a council may not, unless approved by the Minister, bring into force a bylaw or an amendment to a bylaw that requires one or both of the following:

(a) an individual to wear a face mask or other face covering for the primary purpose of preventing or limiting the spread of COVID-19 or any other communicable disease, as defined in the *Public Health Act*;

(b) an individual to provide proof of vaccination against COVID-19 or proof of a negative COVID-19 test on entering a premises.

(2) The Minister shall consider the public interest and consult with the Chief Medical Officer of Health appointed under the *Public Health Act* in determining whether to approve a bylaw or an amendment to a bylaw referred to in subsection (1).

(3) A bylaw or any portion of a bylaw that requires an individual to wear a face mask or other face covering for the primary purpose of preventing or limiting the spread of COVID-19 or any other communicable disease, as defined in the *Public Health Act*, and that is in effect on the coming into force of this section is repealed on the coming into force of this section.

(4) A bylaw or any portion of a bylaw that requires an individual to provide proof of vaccination against COVID-19 or proof of a negative COVID-19 test on entering a premises and that is in effect on the coming into force of this section is repealed on the coming into force of this section.

(5) The repeal of a bylaw under subsection (3) or (4) does not invalidate any enforcement efforts made pursuant to the bylaw when the bylaw was in force.

(6) This section does not apply to a bylaw or a portion of a bylaw that applies only to property owned or leased and operated by a municipality.

2022 c5 s3

Powers under bylaws

8(1) Subject to section 7.1, without restricting section 7, a council may in a bylaw passed under this Division

(a) regulate or prohibit;

(b) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;

(c) provide for a system of licences, permits or approvals, including any or all of the following:

(i) establishing fees for licences, permits and approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue;

(ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality;

(iii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval has been granted;

(iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions and who may impose them;

(v) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them;

(vi) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;

(c.1) establish and specify the fees, rates, fares, tariffs or charges that may be charged for the hire of taxis or limousines;

(d) provide for an appeal, the body that is to decide the appeal and related matters.

(2) Subject to section 7.1, without restricting section 7, 2 or more municipalities may, by bylaw adopted by the council of each participating municipality, establish an intermunicipal business licensing program.

(3) The Minister may make regulations respecting intermunicipal business licensing programs.

RSA 2000 cM-26 s8;2022 c5 s4;2022 c16 s9(4)

Guides to interpreting power to pass bylaws

9 The power to pass bylaws under this Division is stated in general terms to

(a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and

(b) enhance the ability of councils to respond to present and future issues in their municipalities.

1994 cM-26.1 s9

Bylaw passing powers in other enactments

10(1) In this section, "specific bylaw passing power" means a municipality's power or duty to pass a bylaw that is set out in an enactment other than this Division, but does not include a municipality's natural person powers.

(2) If a bylaw could be passed under this Division and under a specific bylaw passing power, the bylaw passed under this Division is subject to any conditions contained in the specific bylaw passing power.

(3) If there is an inconsistency between a bylaw passed under this Division and one passed under a specific bylaw passing power, the bylaw passed under this Division is of no effect to the extent that it is inconsistent with the specific bylaw passing power.

1994 cM-26.1 s10

Relationship to natural person powers

11(1) Despite section 180(2), a municipality may do something under its natural person powers even if the thing could be done under a bylaw passed under this Division.

(2) Section 7(i) does not apply to a bylaw passed under a municipality's natural person powers.

1994 cM-26.1 s11

Division 2
Scope of Bylaws

Geographic area of bylaws

12 A bylaw of a municipality applies only inside its boundaries unless

(a) one municipality agrees with another municipality that a bylaw passed by one municipality has effect inside the boundaries of the other municipality and the council of each municipality passes a bylaw approving the agreement, or

(b) this or any other enactment says that the bylaw applies outside the boundaries of the municipality.

1994 cM-26.1 s12

Relationship to Provincial law

13 If there is a conflict or inconsistency between a bylaw and this or another enactment, the bylaw is of no effect to the extent of the conflict or inconsistency.

RSA 2000 cM-26 s13;2015 c8 s3

Part 3
Special Municipal Powers and Limits on Municipal Powers

Division 1
Expropriation

Expropriation powers

14(1) In this section, "organization" means any of the following organizations in which the municipality is a member or has acquired shares:

(a) a society under the *Societies Act*;

(b) an association registered under Part 9 of the *Companies Act*;

(c) a corporation under the *Business Corporations Act* that is a charity or operates for non-profit purposes;

(b) is defeated on second or third reading.

1994 cM-26.1 s188

Passing of bylaw

189 A bylaw is passed when it receives third reading and it is signed in accordance with section 213.

1994 cM-26.1 s189

Coming into force

190(1) A bylaw comes into force at the beginning of the day that it is passed unless otherwise provided in this or any other enactment or in the bylaw.

(2) If this or any other enactment requires a bylaw to be approved, the bylaw does not come into force until the approval is given.

(3) No bylaw may come into force on a day before it is passed unless the enactment authorizing the passing of the bylaw specifically allows for the bylaw to come into force on a day before it is passed.

1994 cM-26.1 s190

Amendment and repeal

191(1) The power to pass a bylaw under this or any other enactment includes a power to amend or repeal the bylaw.

(2) The amendment or repeal must be made in the same way as the original bylaw and is subject to the same consents or conditions or advertising requirements that apply to the passing of the original bylaw, unless this or any other enactment provides otherwise.

(3) Subsection (2) does not apply to a revision or repeal under section 63.

RSA 2000 cM-26 s191;2017 c13 s1(16)

Meetings

Organizational meetings

192(1) Except in a summer village, a council must hold an organizational meeting annually not later than 14 days after the 3rd Monday in October.

(2) The council of a summer village must hold an organizational meeting annually not later than August 31.

RSA 2000 cM-26 s192;2023 c9 s19(5)

Regular council meetings

193(1) A council may decide at a council meeting at which all the councillors are present to hold regularly scheduled council meetings on specified dates, times and places.

(3) Each municipality must prepare a written plan respecting its anticipated capital property additions over a period of at least the next 5 financial years.

(4) The 3 financial years referred to in subsection (2) and the 5 financial years referred to in subsection (3) do not include the financial year in which the financial plan or capital plan is prepared.

(5) Council may elect to include more than 3 financial years in a financial plan or more than 5 financial years in a capital plan.

(6) Council must annually review and update its financial plan and capital plan.

(7) The Minister may make regulations respecting financial plans and capital plans, including, without limitation, regulations

(a) respecting the form and contents of financial plans and capital plans;

(b) specifying the first financial year required to be reflected in a financial plan;

(c) specifying the first financial year required to be reflected in a capital plan.

2015 c8 s40

Part 9
Assessment of Property

Interpretation provisions for Parts 9 to 12

284(1) In this Part and Parts 10, 11 and 12,

(a) "assessed person" means a person who is named on an assessment roll in accordance with section 304;

(b) "assessed property" means property in respect of which an assessment has been prepared;

(c) "assessment" means a value of property determined in accordance with this Part and the regulations;

(d) "assessor" means

(i) the provincial assessor, or

(ii) a municipal assessor,

and includes any person to whom those duties and responsibilities are delegated by the person referred to in subclause (i) or (ii);

(e) "council" includes

(i) a collecting board that is authorized under section 177 of the *Education Act* to impose and collect taxes in a school division as defined in that Act, and

(ii) the Minister, in respect of an improvement district or special area;

(f) "Crown" means the Crown in right of Alberta, and includes a Provincial agency as defined in the *Financial Administration Act* and an agent of the Crown in right of Alberta;

(f.01) "designated industrial property" means

(i) facilities regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator,

(ii) linear property,

(iii) property designated as a major plant by the regulations,

(iv) land and improvements in respect of a parcel of land where that parcel of land contains property described in subclause (i) or (iii), and

(v) land and improvements in respect of land in which a leasehold interest is held where the land is not registered in a land titles office and contains property described in subclause (i) or (iii);

(f.1) "designated manufactured home" means a manufactured home, mobile home, modular home or travel trailer;

(g) repealed 2016 c24 s21;

(g.1) "extended area network" has the meaning given to it in the regulations;

(h) "farm building" has the meaning given to it in the regulations;

(i) "farming operations" has the meaning given to it in the regulations;

(j) "improvement" means

(i) a structure,

(ii) any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,

(iii) a designated manufactured home,

(iii.1) linear property, and

(iv) machinery and equipment;

(k) "linear property" means

(i) electric power systems, which has the meaning given to that term in the regulations,

(ii) street lighting systems, which has the meaning given to that term in the regulations,

(iii) telecommunication systems, which has the meaning given to that term in the regulations,

(iv) pipelines, which has the meaning given to that term in the regulations,

(v) railway property, which has the meaning given to that term in the regulations, and

(vi) wells, which has the meaning given to that term in the regulations;

(l) "machinery and equipment" has the meaning given to it in the regulations;

(m) "manufactured home" means any structure, whether ordinarily equipped with wheels or not, that is manufactured to meet or exceed the Canadian Standards Association standard CSA Z240 and that is used as a residence or for any other purpose;

(n) "manufactured home community" means a parcel of land that

(i) is designated in the land use bylaw of a municipality as a manufactured home community, and

(ii) includes at least 3 designated manufactured home sites that are rented or available for rent;

(n.1) "mobile home" means a structure that is designed to be towed or carried from place to place and that is used as a residence or for any other purpose, but that does not meet Canadian Standards Association standard CSA Z240;

(n.2) "modular home" means a home that is constructed from a number of pre-assembled units that are intended for delivery to and assembly at a residential site;

(n.3) "municipal assessment roll" means the assessment roll prepared by a municipality under section 302(1);

(n.4) "municipal assessor" means a designated officer appointed under section 284.2 to carry out the functions, duties and powers of a municipal assessor under this Act;

(o) "municipality" includes

(i) a school division, as defined in the *Education Act*, in which a collecting board is authorized under section 177 of that Act to impose and collect taxes or, where the school division is authorized or required to act, the collecting board, and

(ii) an improvement district and a special area or, where the improvement district or special area is authorized or required to act, the Minister;

(o.1) "operational" has the meaning given to it in the regulations;

(p) "operator" has the meaning given to it in the regulations;

(q) "owner", in respect of a designated manufactured home, means the owner of the designated manufactured home and not the person in lawful possession of it;

(r) "property" means

(i) a parcel of land,

(ii) an improvement, or

(iii) a parcel of land and the improvements to it;

(r.1) "provincial assessment roll" means the assessment roll prepared by the provincial assessor under section 302(2);

(r.2) "provincial assessor" means the provincial assessor designated under section 284.1;

(s), (t) repealed 2016 c24 s21;

(u) "structure" means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;

(u.1) "SuperNet" has the meaning given to it in the regulations;

(v), (w) repealed 2016 c24 s21;

(w.1) "travel trailer" means a trailer intended to provide accommodation for vacation use and licensed and equipped to travel on a road;

(x) "year" means a 12-month period beginning on January 1 and ending on the next December 31.

(2) In this Part and Parts 10, 11 and 12, a reference to a parcel of land that is held under a lease, licence or permit from the Crown in right of Alberta or Canada includes a part of the parcel.

(2.1) For the purposes of subsection (1)(f.01)(i), a facility regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator includes all components of the facility, including any machinery and equipment, buildings and structures servicing or related to the facility and land on which the facility is located.

(3) For the purposes of this Part and Parts 10, 11 and 12, any document, including an assessment notice and a tax notice, that is required to be sent to a person is deemed to be sent on the day the document is mailed or otherwise delivered to that person.

(4) In this Part and Parts 11 and 12, "complaint deadline" means 60 days after the notice of assessment date set under section 308.1 or 324(2)(a.1).

RSA 2000 cM-26 s284;2007 cA-37.2 s82(17);2007 c42 s3;
2009 c29 s2;2012 cE-0.3 s279;2015 c8 s41;2016 c24 ss21,140;
2017 c13 s1(20);2021 c22 s2;2022 c16 s9(62)

Provincial assessor

284.1(1) The Minister must designate a person having the qualifications set out in the regulations as the provincial assessor to carry out the functions, duties and powers of the provincial assessor under this Act.

(2) Subject to the regulations, the provincial assessor may delegate to any person any power or duty conferred or imposed on the provincial assessor by this Act.

(3) The provincial assessor is not liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of the provincial assessor's functions, duties or powers under this Act or any other enactment.

2016 c24 s22

Municipal assessor

284.2(1) A municipality must appoint a person having the qualifications set out in the regulations to the position of designated officer to carry out the functions, duties and powers of a municipal assessor under this Act.

(2) Subject to the regulations, a municipal assessor may delegate to any person any power or duty conferred or imposed on the municipal assessor by this Act.

(3) A municipal assessor is not liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of the municipal assessor's functions, duties or powers under this Act or any other enactment.

2016 c24 s22

Division 1
Preparation of Assessments

Preparing annual assessments

285 Each municipality must prepare annually an assessment for each property in the municipality, except designated industrial property and the property listed in section 298.

RSA 2000 cM-26 s285;2002 c19 s2;2016 c24 s135

286 Repealed 1994 cM-26.1 s286.

287 Repealed 1994 cM-26.1 s287.

288 Repealed 1994 cM-26.1 s288.

Assessments for property other than designated industrial property

289(1) Assessments for all property in a municipality, other than designated industrial property, must be prepared by the municipal assessor.

(2) Each assessment must reflect

(a) the characteristics and physical condition of the property on December 31 of the year prior to the year in which a tax is imposed under Part 10 in respect of the property, and

(b) the valuation and other standards set out in the regulations for that property.

(2.1) If the provincial assessor and a municipal assessor assess the same property, the municipality in which the property is situated must rescind the municipal assessment and notify the assessed person.

(3), **(4)** Repealed 2016 c24 s23.

RSA 2000 cM-26 s289;2009 c29 s3;2016 c24 s23

Land to be assessed as a parcel

290(1) If a parcel of land is located in more than one municipality, the assessor must prepare an assessment for the part of the parcel that is located in the municipality in which the assessor has the authority to act, as if that part of the parcel is a separate parcel of land.

(2) Any area of land forming part of a right of way for a railway, irrigation works as defined in the *Irrigation Districts Act* or drainage works as defined in the *Drainage Districts Act* but used for purposes other than the operation of the railway, irrigation works or drainage works must be assessed as if it is a parcel of land.

(3) Any area of land that is owned by the Crown in right of Alberta or Canada and is the subject of a grazing lease or grazing permit granted by either Crown must be assessed as if it is a parcel of land.

(4) Repealed 1995 c24 s37.

1994 cM-26.1 s290;1995 c24 s37;1999 cI-11.7 s214

Assessment of condominium unit

290.1(1) Each unit and the share in the common property that is assigned to the unit must be assessed

(a) in the case of a bare land condominium, as if it is a parcel of land, or

(b) in any other case, as if it is a parcel of land and the improvements to it.

(2) In this section, "unit" and "share in the common property" have the meanings given to them in the *Condominium Property Act*.

1995 c24 s38

Assessment of strata space

290.2 Each strata space as defined in section 86 of the *Land Titles Act* must be assessed as if it is a parcel of land and the improvements to it.

1995 c24 s38

Rules for assessing improvements

291(1) Unless subsection (2) applies, an assessment must be prepared for an improvement whether or not it is complete or capable of being used for its intended purpose.

(2) No assessment is to be prepared

(a) for new linear property that is not operational on or before October 31,

(b) for new improvements, other than designated industrial property improvements, that are intended to be used for or in connection with a manufacturing or processing operation and that are not operational on or before December 31,

(c) for new designated industrial property improvements, other than linear property, that are intended to be used for or in connection with a manufacturing or processing operation and that are not operational on or before October 31,

(d) for new improvements, other than designated industrial property improvements, that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in clause (b), if the improvements referred to in clause (b) are not operational on or before December 31, or

(e) for new designated industrial property improvements, other than linear property, that are intended to be used for the storage of materials manufactured or processed by the improvements referred to in clause (c), if the improvements referred to in clause (c) are not operational on or before October 31.

(2.1) Notwithstanding subsection (2), an assessment must be prepared for new improvements, whether complete or not, on a property or a portion of a property where the improvements do not contain machinery and equipment intended to be used in connection with the manufacturing and processing operation even if another portion of the property contains a manufacturing or processing operation.

(3) to **(5)** Repealed 2016 c24 s24.

RSA 2000 cM-26 s291;2008 c24 s2;2016 c24 s24;
2019 c22 s10(8)

Assessments for designated industrial property

292(1) Assessments for designated industrial property must be prepared by the provincial assessor.

(2) Each assessment must reflect

(a) the valuation standard set out in the regulations for designated industrial property, and

(b) the specifications and characteristics of the designated industrial property as specified in the regulations.

(2.1) The specifications and characteristics of the designated industrial property referred to in subsection (2)(b) must reflect

(a) the records of the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator, as the case may be, on October 31 of the year prior to the year in which the tax is imposed under Part 10 in respect of the designated industrial property, and

(b) any other source of information that the provincial assessor considers relevant, as at October 31 of the year prior to the year in which the tax is imposed under Part 10 in respect of the designated industrial property.

(2.2) Information received by the provincial assessor from the Alberta Energy Regulator, the Alberta Utilities Commission or the Canadian Energy Regulator is deemed to be correct for the purposes of preparing assessments.

(3) to **(5)** Repealed 2016 c24 s25.

RSA 2000 cM-26 s292;2007 cA-37.2 s82(17);
2008 c37 s2;2012 cR-17.3 s95;2016 c24 s25;
2022 c16 s9(62)

Duties of assessors

293(1) In preparing an assessment, an assessor must, in a fair and equitable manner,

(a) apply the valuation and other standards set out in the regulations, and

(b) follow the procedures set out in the regulations.

(2) If there are no procedures set out in the regulations for preparing assessments, the assessor must take into consideration assessments of similar property in the same municipality in which the property that is being assessed is located.

(3) The municipal assessor must, in accordance with the regulations, provide the Minister or the provincial assessor with information that the Minister or the provincial assessor requires about property in the municipality.

RSA 2000 cM-26 s293;2002 c19 s3;2009 c29 s4; 2016 c24 s26

Right to enter on and inspect property

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purpose of carrying out the duties and responsibilities of the assessor under Parts 9 to 12 and the regulations,

(a) enter on and inspect the property,

(b) request anything to be produced, and

(c) make copies of anything necessary to the inspection.

(2) When carrying out duties under subsection (1), an assessor must produce identification on request.

(3) An assessor must, in accordance with the regulations, inform the owner or occupier of any property of the purpose for which information is being collected under this section and section 295.

RSA 2000 cM-26 s294;2002 c19 s4;2017 c13 s1(21)

Duty to provide information

295(1) A person must provide, on request by an assessor, any information necessary for the assessor to carry out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations.

(2) The Alberta Safety Codes Authority or an agency accredited under the *Safety Codes Act* must release, on request by an assessor, information or documents respecting a permit issued under the *Safety Codes Act*.

(3) An assessor may request information or documents under subsection (2) only in respect of a property within the municipality for which the assessor is preparing an assessment.

(4) No person may make a complaint in the year following the assessment year under section 460 or, in the case of designated industrial property, under section 492(1) about an assessment if the

person has failed to provide any information requested under subsection (1) within 60 days from the date of the request.

(5) Information collected under this section must be reported to the Minister on the Minister's request.

(6) Despite section 294(1) and subsection (1) of this section, where an assessment of property is the subject of a complaint under Part 11 or 12 by the person assessed in respect of that property,

(a) the assessed person is not obligated to provide information or produce anything to an assessor in respect of that assessment, and

(b) the assessor has no authority under section 294(1)(c) to make copies of anything the assessed person refuses to provide or produce relating to that assessment

until after the complaint has been heard and decided by the assessment review board or the Land and Property Rights Tribunal, as the case may be.

RSA 2000 cM-26 s295;2002 c19 s5;2016 c24 s27;
2017 c13 s2(6);2020 cL-2.3 24(41)

Assessor not bound by information received

295.1 An assessor is not bound by the information received under section 294 or 295 if the assessor has reasonable grounds to believe that the information is inaccurate.

2019 c22 s10(9)

Court authorized inspection and enforcement

296(1) The provincial assessor or a municipality may apply to the Court of King's Bench for an order under subsection (2) if any person

(a) refuses to allow or interferes with an entry or inspection by an assessor, or

(b) refuses to produce anything requested by an assessor to assist the assessor in preparing an assessment or determining if property is to be assessed.

(2) The Court may make an order

(a) restraining a person from preventing or interfering with an assessor's entry or inspection, or

(b) requiring a person to produce anything requested by an assessor under section 294 or 295.

(3) A copy of the application and each affidavit in support must be served at least 3 days before the day named in the application for the hearing.

RSA 2000 cM-26 s296;2009 c53 s119;2016 c24 s28;AR 217/2022

Assigning assessment classes to property

297(1) When preparing an assessment of property, the assessor must assign one or more of the following assessment classes to the property:

(a) class 1 - residential;

(b) class 2 - non-residential;

(c) class 3 - farm land;

(d) class 4 - machinery and equipment.

(2) A council may by bylaw divide class 1 into sub-classes on any basis it considers appropriate, and if the council does so, the assessor may assign one or more sub-classes to property in class 1.

(2.1) A council may by bylaw divide class 2 into the sub-classes prescribed by subsection (3.1), and if the council does so, the assessor must assign one or more of the prescribed sub-classes to a property in class 2.

(3) If more than one assessment class or sub-class is assigned to a property, the assessor must provide a breakdown of the assessment, showing each assessment class or sub-class assigned and the portion of the assessment attributable to each assessment class or sub-class.

(3.1) For the purposes of subsection (2.1), the following sub-classes are prescribed for property in class 2:

(a) vacant non-residential property;

(b) small business property;

(c) other non-residential property.

(3.2) The sub-classes referred to in subsection (3.1)(a), (b) and (c) may be applied to both the Urban and Rural Service Areas for Lac La Biche County and the Regional Municipality of Wood Buffalo as if the service areas were separate entities.

(3.3) For the purposes of subsection (3.1)(b), property in a municipality is small business property of a business if

(a) the property

(i) is owned or leased by the business, and

(ii) is not designated industrial property,

(b) the business is operating under a business licence or a municipal bylaw that identifies the business, and

(c) the business has, on December 31 of the relevant assessment year or on an alternative date specified in a municipal bylaw, a number of full-time employees across Canada that

(i) is less than 50, or

(ii) is less than any number less than 50 that is specified in a municipal bylaw,

whichever is lower.

(3.4) Despite subsection (3.3)(a)(i), a property that is leased by a business is not a small business property of a business if the business has subleased the property to someone else.

(3.5) A municipality may by bylaw prescribe procedures to allow for the effective administration of the small business property sub-class tax rate, including, without limitations, a method for determining and counting full-time employees and the frequency of that count.

(4) In this section,

(a) "farm land" means land used for farming operations as defined in the regulations;

(a.1) "machinery and equipment" does not include

(i) any thing that falls within the definition of linear property as set out in section 284(1)(k), or

(ii) any component of a manufacturing or processing facility that is used for the cogeneration of power;

(b) "non-residential", in respect of property, means linear property, components of manufacturing or processing facilities that are used for the cogeneration of power or other property on which industry, commerce or another use takes place or is permitted to take place under a land use bylaw passed by a council, but does not include farm land or land

that is used or intended to be used for permanent living accommodation;

(c) "residential", in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or non-residential.

RSA 2000 cM-26 s297;2002 c19 s6; 2016 c24 s29; 2017 c13 s2(7);2022 c16 s9(63)

Non-assessable property

298(1) No assessment is to be prepared for the following property:

(a) a facility, works or system for

(i) the collection, treatment, conveyance or disposal of sanitary sewage, or

(ii) storm sewer drainage,

that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;

(b) a facility, works or system for the storage, conveyance, treatment, distribution or supply of water that is owned by the Crown in right of Alberta or Canada, a municipality or a regional services commission;

(b.1) a water supply and distribution system, including metering facilities, that is owned or operated by an individual or a corporation and used primarily to provide a domestic water supply service;

(c) irrigation works as defined in the *Irrigation Districts Act* and the land on which they are located when they are held by an irrigation district, but not including any residence or the land attributable to the residence;

(d) canals, dams, dikes, weirs, breakwaters, ditches, basins, reservoirs, cribs and embankments;

(e) flood-gates, drains, tunnels, bridges, culverts, headworks, flumes, penstocks and aqueducts

(i) located at a dam,

(ii) used in the operation of a dam, and

(iii) used for water conservation or flood control, but not for the generation of electric power;

(f) land on which any property listed in clause (d) or (e) is located

(i) if the land is a dam site, and

(ii) whether or not the property located on the land is used for water conservation, flood control or the generation of electric power;

(g) a water conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat water to meet municipal standards, but not including any improvement designed and used for

(i) the further treatment of the water supply to meet specific water standards for a manufacturing or processing operation,

(ii) water reuse,

(iii) fire protection, or

(iv) the production or transmission of a natural resource;

(h) a sewage conveyance system operated in connection with a manufacturing or processing plant, including any facilities designed and used to treat and dispose of domestic sewage, but not including any improvement designed and used for the treatment of other effluent from the manufacturing or processing plant;

(i) roads, but not including a road right of way that is held under a lease, licence or permit from the Crown in right of Alberta or Canada or from a municipality and that is used for a purpose other than as a road;

(i.1) weigh scales, inspection stations and other improvements necessary to maintain the roads referred to in clause (i) and to keep those roads and users safe, but not including a street lighting system owned by a corporation, a municipality or a corporation controlled by a municipality;

(j) property held by the Crown in right of Alberta or Canada in a municipal district, improvement district, special area or specialized municipality that

(i) is not used or actively occupied by the Crown, or

(ii) is not occupied under an interest or right granted by the Crown,

unless the property is located in a hamlet or in an urban service area as defined in an order creating a specialized municipality;

(k) any provincial park or recreation area, including any campground, day use area or administration and maintenance facility held by the Crown in right of Alberta or operated under a facility operation contract or service contract with the Crown in right of Alberta, but not including the following:

(i) a residence and the land attributable to it;

(ii) property that is the subject of a disposition under the *Provincial Parks Act* or the *Public Lands Act*;

(iii) a downhill ski hill, golf course, food concession, store or restaurant, and the land attributable to it, operated under a facility operation contract or a service contract with the Crown in right of Alberta;

(k.1) any national park held by the Crown in right of Canada, but not including a parcel of land, an improvement, or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Canada;

(l) property held by the Crown in right of Alberta or Canada and forming part of an undertaking in respect of the conservation, reclamation, rehabilitation or reforestation of land, but not including any residence or the land attributable to the residence;

(m) property used for or in connection with a forestry tower that is not accessible by road;

(n) any interest under a timber disposition under the *Forests Act* and the timber harvest or cut authorized by the disposition;

(o) any interest under a permit or authorization for the grazing of stock under the *Forests Act* or the *Forest Reserves Act*;

(p) wheel loaders, wheel trucks and haulers, crawler type shovels, hoes and dozers;

(q) linear property used exclusively for farming operations;

(r) linear property forming part of a rural gas distribution system and gas conveyance pipelines situated in a rural municipality where that linear property is owned by a municipality or a rural gas co-operative association organized under the *Rural Utilities Act*, but not including gas conveyance pipelines owned by rural gas co-operative associations,

(i) from the regulating and metering station to an industrial customer consuming more than 10 000 gigajoules of gas during any period that starts on November 1 in one year and ends on October 31 in the next year and that precedes the year in which the assessment for those pipelines is to be used for the purpose of imposing a tax under Part 10, or

(ii) that serve or deliver gas to

(A) a city, town, village, summer village or hamlet, or

(B) an urban service area as defined in an order creating a specialized municipality

that has a population of more than 500 people;

(r.1) linear property forming part of a rural gas distribution system where that gas distribution system is subject to a franchise area approval under the *Gas Distribution Act*;

(s) cairns and monuments;

(t) property in Indian reserves;

(u) property in Metis settlements;

(v) minerals;

(w) growing crops;

(x) the following improvements owned or leased by a regional airports authority created under section 5(2) of the *Regional Airports Authorities Act*:

(i) runways;

(ii) paving;

(iii) roads and sidewalks;

(iv) reservoirs;

(v) water and sewer lines;

(vi) fencing;

(vii) conveyor belts, cranes, weigh scales, loading bridges and machinery and equipment;

(viii) pole lines, transmission lines, light standards and unenclosed communications towers;

(y) farm buildings;

(z) machinery and equipment, except to the extent prescribed in the regulations;

(aa) designated manufactured homes held in storage and forming part of the inventory of a manufacturer of or dealer in designated manufactured homes;

(bb) travel trailers that are

(i) not connected to any utility services provided by a public utility, and

(ii) not attached or connected to any structure;

(cc) linear property in the extended area network that is used for SuperNet purposes.

(2) In subsection (1)(r)(i), "industrial customer" means a customer that operates a factory, plant, works or industrial process related to manufacturing and processing.

(3) Despite subsection (1)(cc), where linear property referred to in that provision is used for business, the linear property is, subject to the regulations, assessable to the extent the linear property is used for business.

RSA 2000 cM-26 s298;2005 c14 s4;2015 c8 s42;2022 c16 s9(64)

Access to municipal assessment record

299(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive information prescribed by the regulations that is in the municipal assessor's possession at the time of the request, showing how the municipal assessor prepared the assessment of that person's property.

(2) Subject to subsection (3) and the regulations, the municipality must comply with a request under subsection (1).

(3) Where a complaint is filed under section 461 by the person assessed in respect of property, a municipality is not obligated to respond to a request by that person for information under this section in respect of an assessment of that property until the complaint has been heard and decided by an assessment review board.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

RSA 2000 cM-26 s299;2009 c29 s5;2016 c24 s30;2017 c13 s2(8)

Access to provincial assessment record

299.1(1) An assessed person may ask the provincial assessor, in the manner required by the provincial assessor, to let the assessed person see or receive information prescribed by the regulations in the provincial assessor's possession at the time of the request, showing how the provincial assessor prepared the assessment of that person's designated industrial property.

(2) Subject to subsection (3) and the regulations, the provincial assessor must comply with a request under subsection (1).

(3) Where a complaint described in section 492(1) is filed under section 491(1) by the person assessed in respect of designated industrial property, the provincial assessor is not obligated to respond to a request by that person for information under this section in respect of an assessment of that designated industrial property until the complaint has been heard and decided by the Land and Property Rights Tribunal.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

2016 c24 s30;2017 c13 s2(8);2020 cL-2.3 s24(41)

Municipal access to provincial assessment record

299.2(1) A municipality may ask the provincial assessor, in the manner required by the provincial assessor, to let the municipality see or receive information in the provincial assessor's possession at the time of the request, showing how the provincial assessor prepared the assessment of designated industrial property in the municipality.

(2) Subject to subsection (3) and the regulations, the provincial assessor must comply with a request under subsection (1).

(3) Where a complaint described in section 492(1) is filed under section 491(1) by a municipality in respect of designated industrial

property, the provincial assessor is not obligated to respond to a request by that municipality for information under this section in respect of an assessment of that designated industrial property until the complaint has been heard and decided by the Land and Property Rights Tribunal.

(4) Subsection (3) does not apply if the request for information is in respect of an amended assessment and the amended assessment notice was issued during the complaint period.

(5) Information obtained by a municipality under this section must be used only for assessment purposes and must not be disclosed except at the hearing of a complaint before the Land and Property Rights Tribunal.

2016 c24 s30;2017 c13 s2(8);2020 cL-2.3 s24(41)

Access to summary of municipal assessment

300(1) An assessed person may ask the municipality, in the manner required by the municipality, to let the assessed person see or receive a summary of the most recent assessment of any assessed property in the municipality of which the assessed person is not the owner.

(2) For the purposes of subsection (1), a summary of the most recent assessment must include the following information that is in the municipal assessor's possession or under the municipal assessor's control at the time of the request:

(a) a description of the parcel of land and any improvements, to identify the type and use of the property;

(b) the size and measurements of the parcel of land;

(c) the age and size or measurement of any improvements;

(d) the key attributes of any improvements to the parcel of land;

(e) the assessed value and any adjustments to the assessed value of the parcel of land;

(f) any other information prescribed or otherwise described in the regulations.

(3) The municipality must, in accordance with the regulations, comply with a request under subsection (1) if it is satisfied that necessary confidentiality will not be breached.

RSA 2000 cM-26 s300;2009 c29 s6;2016 c24 s31

Access to summary of provincial assessment

300.1(1) An assessed person may ask the provincial assessor, in the manner required by the provincial assessor, to let the assessed person see or receive a summary of the most recent assessment of any assessed designated industrial property of which the assessed person is not the owner or operator.

(2) For the purposes of subsection (1), a summary of the most recent assessment must include the following information that is in the provincial assessor's possession or under the provincial assessor's control at the time of the request:

(a) a description of the designated industrial property;

(b) the assessed value associated with the designated industrial property;

(c) any other information prescribed or otherwise described in the regulations.

(3) The provincial assessor must, in accordance with the regulations, comply with a request under subsection (1) if the provincial assessor is satisfied that necessary confidentiality will not be breached.

2016 c24 s31

Right to release assessment information

301(1) A municipality may provide information in its possession about assessments if it is satisfied that necessary confidentiality will not be breached.

(2) The provincial assessor may provide information that is in the provincial assessor's possession about assessments if the provincial assessor is satisfied that necessary confidentiality will not be breached.

RSA 2000 cM-26 s301;2016 c24 s32

Relationship to Freedom of Information and Protection of Privacy Act

301.1 Sections 299 to 301 prevail despite the *Freedom of Information and Protection of Privacy Act*.

1994 cM-26.1 s738

Division 2
Assessment Roll

Preparation of roll

302(1) Each municipality must prepare annually, not later than February 28, an assessment roll for assessed property in the municipality other than designated industrial property.

(2) The provincial assessor must prepare annually, not later than February 28, an assessment roll for assessed designated industrial property.

(3) The provincial assessor must provide to each municipality a copy of that portion of the provincial assessment roll that relates to the designated industrial property situated in the municipality.

RSA 2000 cM-26 s302;2005 c14 s5;2016 c24 s33

Contents of roll

303 The assessment roll prepared by a municipality must show, for each assessed property, the following:

(a) a description sufficient to identify the location of the property;

(b) the name and mailing address of the assessed person;

(c) whether the property is a parcel of land, an improvement or a parcel of land and the improvements to it;

(d) if the property is an improvement, a description showing the type of improvement;

(e) the assessment;

(f) the assessment class or classes;

(f.1) repealed 2017 c13 s1(22);

(g) whether the property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 147 or 148 of the *Education Act*;

(g.1) repealed 2016 c24 s34;

(h) if the property is fully or partially exempt from taxation under Part 10, a notation of that fact;

(h.1) if a deferral of the collection of tax under section 364.1 or 364.2 is in effect for the property, a notation of that fact;

(i) any other information considered appropriate by the municipality or required by the Minister, as the case may be.

RSA 2000 cM-26 s303;2002 c19 s7;2005 c14 s6;
2012 cE-0.3 s279;2016 c24 s34;2017 c13 s1(22);
2019 c6 s3

Contents of provincial assessment roll

303.1 The provincial assessment roll must show, for each assessed designated industrial property, the following:

(a) a description of the type of designated industrial property;

(b) a description sufficient to identify the location of the designated industrial property;

(c) the name and mailing address of the assessed person;

(d) the assessment;

(e) the assessment class or classes;

(f) repealed 2017 c13 s2(9);

(g) whether the designated industrial property is assessable for public school purposes or separate school purposes, if notice has been given to the municipality under section 147 or 148 of the *Education Act*;

(h) if the designated industrial property is exempt from taxation under Part 10, a notation of that fact;

(h.1) if a deferral of the collection of tax under section 364.2 is in effect for the property, a notation of that fact;

(i) any other information considered appropriate by the provincial assessor.

2012 cE-0.3 s279;2016 c24 s35;2017 c13 s2(9);2019 c6 s4

Recording assessed persons

304(1) The name of the person described in column 2 must be recorded on the assessment roll as the assessed person in respect of the assessed property described in column 1.

	Column 1 Assessed property		Column 2 Assessed person
(a)	a parcel of land, unless otherwise dealt with in this subsection;	(a)	the owner of the parcel of land;
(b)	a parcel of land and the improvements to it, unless otherwise dealt with in this subsection;	(b)	the owner of the parcel of land;

	Column 1 Assessed property		Column 2 Assessed person
(c)	a parcel of land, an improvement or a parcel of land and the improvements to it held under a lease, licence or permit from the Crown in right of Alberta or Canada or a municipality;	(c)	the holder of the lease, licence or permit or, in the case of a parcel of land or a parcel of land and the improvements to it, the person who occupies the land with the consent of that holder or, if the land that was the subject of a lease, licence or permit has been sold under an agreement for sale, the purchaser under that agreement;
(d)	a parcel of land forming part of the station grounds of, or of a right of way for, a railway other than railway property, or a right of way for, irrigation works as defined in the *Irrigation Districts Act* or drainage works as defined in the *Drainage Districts Act*, that is held under a lease, licence or permit from the person who operates the railway, or from the irrigation district or the board of trustees of the drainage district;	(d)	the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder;
(d.1)	railway property;	(d.1)	the owner of the railway property;
(e)	a parcel of land and the improvements to it held under a lease, licence or permit from a regional airports authority, where the land and improvements are used in connection with the operation of an airport;	(e)	the holder of the lease, licence or permit or the person who occupies the land with the consent of that holder;

	Column 1 Assessed property		Column 2 Assessed person
(f)	a parcel of land, or a part of a parcel of land, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and the improvements are used for (i) drilling, treating, separating, refining or processing of natural gas, oil, coal, salt, brine or any combination, product or by-product of any of them, (ii) pipeline pumping or compressing, or (iii) working, excavating, transporting or storing any minerals in or under the land referred to in the lease, licence or permit or under land in the vicinity of that land.	(f)	the holder of the lease, licence or permit;
(g)	machinery and equipment used in the excavation or transportation of coal or oil sands as defined in the *Oil Sands Conservation Act*;	(g)	the owner of the machinery and equipment;
(h)	improvements to a parcel of land listed in section 298 for which no assessment is to be prepared;	(h)	the person who owns or has exclusive use of the improvements;
(i)	linear property;	(i)	the operator of the linear property;

	Column 1 Assessed property		Column 2 Assessed person
(j)	a designated manufactured home on a site in a manufactured home community and any other improvements located on the site and owned or occupied by the person occupying the designated manufactured home;	(j)	the owner of (i) the designated manufactured home, or (ii) the manufactured home community if the municipality passes a bylaw to that effect;
(k)	a designated manufactured home located on a parcel of land that is not owned by the owner of the designated manufactured home together with any other improvements located on the site that are owned or occupied by the person occupying the designated manufactured home;	(k)	the owner of the designated manufactured home if the municipality passes a bylaw to that effect;
(l)	a parcel of land, or a part of a parcel of land, and the improvements to it held under a lease, licence or permit from the owner of the land where the land and improvements are used in connection with an electric generation system as defined in the regulations.	(l)	the holder of the lease, licence or permit.

(2) When land is occupied under the authority of a right of entry order as defined in the *Surface Rights Act* or an order made under any other Act, it is, for the purposes of subsection (1), considered to be occupied under a lease or licence from the owner of the land.

(3) A person who purchases property or in any other manner becomes liable to be shown on the assessment roll as an assessed person

(a) must provide to the provincial assessor, in the case of designated industrial property, or

(b) must provide to the municipality, in the case of property other than designated industrial property,

written notice of a mailing address to which notices under this Part and Part 10 may be sent.

(4) Despite subsection (1)(c), no individual who occupies housing accommodation under a lease, licence or permit from a management body under the *Alberta Housing Act* is to be recorded as an assessed person if the sole purpose of the lease, licence or permit is to provide housing accommodation for that individual.

(5) Repealed 2016 c24 s36.

(6) A bylaw passed under subsection (1)(j)(ii)

(a) must be advertised,

(b) has no effect until the beginning of the year commencing at least 12 months after the bylaw is passed,

(c) must indicate the criteria used to designate the assessed person, and

(d) may apply to one or more manufactured home communities.

(7) When a bylaw is passed under subsection (1)(j)(ii), the owner of the designated manufactured home is the assessed person for the purpose of making a complaint under section 460(1) relating to the designated manufactured home.

RSA 2000 cM-26 s304;2005 c14 s7;2008 c37 s3;
2016 c24 s36;2017 c13 s1(23);2024 c11 s2(23)

Correction of roll

305(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the assessment roll,

(a) the assessor may correct the assessment roll for the current year only, and

(b) on correcting the roll, an amended assessment notice must be prepared and sent to the assessed person.

(1.1) Where an assessor corrects the assessment roll in respect of an assessment about which a complaint has been made, the assessor must send to the assessment review board or the Land and Property

Rights Tribunal, as the case may be, no later than the time required by the regulations,

(a) a copy of the amended assessment notice, and

(b) a statement containing the following information:

(i) the reason for which the assessment roll was corrected;

(ii) what correction was made;

(iii) how the correction affected the amount of the assessment.

(1.2) Where the assessor sends a copy of an amended assessment notice under subsection (1.1) before the date of the hearing in respect of the complaint,

(a) the complaint is cancelled,

(b) the complainant's complaint fees must be returned, and

(c) the complainant has a new right of complaint in respect of the amended assessment notice.

(2) If it is discovered that no assessment has been prepared for a property and the property is not listed in section 298, an assessment for the current year only must be prepared and an assessment notice must be prepared and sent to the assessed person.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 364.1, 364.2 or 368, the assessment roll must be corrected for the current year only and an amended assessment notice must be prepared and sent to the assessed person.

(3.1) If the collection of tax on property is deferred under section 364.1 or 364.2 or a deferral under one of those sections is cancelled, the assessment roll must be corrected and an amended assessment notice must be prepared and sent to the assessed person.

(4) The date of every entry made on the assessment roll under this section or section 477 or 517 must be shown on the roll.

(5), **(6)** Repealed 2016 c24 s37.

RSA 2000 cM-26 s305;2002 c19 s8;2009 c29 s7;2015 c8 s43;
2016 c24 s37;2017 c13 s1(24);2019 c6 s5;2020 cL-2.3 s24(41)

Report to Minister

305.1 If an assessment roll is corrected under section 305 or changed under section 477 or 517, the municipality must, in the

form and within the time prescribed by the regulations, report the correction or change, as the case may be, to the Minister.

2002 c19 s9

Severability of roll

306 The fact that any information shown on the assessment roll contains an error, omission or misdescription does not invalidate any other information on the roll or the roll itself.

1994 cM-26.1 s306

Inspection of roll

307 Any person may inspect the municipal assessment roll during regular business hours on payment of the fee set by the council.

RSA 2000 cM-26 s307;2016 c24 s38

Division 3
Assessment Notices

Assessment notices

308(1) Each municipality must annually

(a) prepare assessment notices for all assessed property, other than designated industrial property, shown on the assessment roll referred to in section 302(1), and

(b) send the assessment notices to the assessed persons in accordance with the regulations.

(2) The provincial assessor must annually

(a) prepare assessment notices for all assessed designated industrial property shown on the provincial assessment roll,

(b) send the assessment notices to the assessed persons in accordance with the regulations, and

(c) send the municipality copies of the assessment notices.

(3) Repealed 2016 c24 s39.

(4) The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.

(5) Repealed 2016 c24 s39.

RSA 2000 cM-26 s308;2005 c14 s8;2016 c24 s39

Notice of assessment date

308.1(1) An assessor must annually set a notice of assessment date, which must be no earlier than January 1 and no later than July 1.

(2) An assessor must set additional notice of assessment dates for amended and supplementary assessment notices, but none of those notice of assessment dates may be later than the date that tax notices are required to be sent under Part 10.

2017 c13 s1(25)

Contents of assessment notice

309(1) An assessment notice or an amended assessment notice must show the following:

(a) the same information that is required to be shown on the assessment roll;

(b) the notice of assessment date;

(c) a statement that the assessed person may file a complaint not later than the complaint deadline;

(d) information respecting filing a complaint in accordance with the regulations.

(2) An assessment notice may be in respect of a number of assessed properties if the same person is the assessed person for all of them.

RSA 2000 cM-26 s309;2009 c29 s8; 2016 c24 s40;2017 c13 s2(10)

Sending assessment notices

310(1) Subject to subsections (1.1) and (3), assessment notices must be sent no later than July 1 of each year.

(1.1) An amended assessment notice must be sent no later than the date the tax notices are required to be sent under Part 10.

(2) If the mailing address of an assessed person is unknown,

(a) a copy of the assessment notice must be sent to the mailing address of the assessed property, and

(b) if the mailing address of the property is also unknown, the assessment notice must be retained by the municipality or the provincial assessor, as the case may be, and is deemed to have been sent to the assessed person.

(3) An assessment notice must be sent at least 7 days prior to the notice of assessment date.

(4) A designated officer must certify the date on which the assessment notice is sent.

(5) The certification of the date referred to in subsection (4) is evidence that the assessment notice has been sent.

RSA 2000 cM-26 s310;2009 c29 s9;
2016 c24 s41;2017 c13 s1(26)

Publication of notice

311(1) Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.

(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.

(3) The provincial assessor must publish in The Alberta Gazette a notice that the assessment notices in respect of designated industrial property have been sent.

(4) All assessed persons are deemed as a result of the publication referred to in subsection (3) to have received their assessment notices in respect of designated industrial property.

RSA 2000 cM-26 s311;2005 c14 s9;2016 c24 s42

Correction of notice

312 If it is discovered that there is an error, omission or misdescription in any of the information shown on an assessment notice, an amended assessment notice may be prepared and sent to the assessed person.

1994 cM-26.1 s312

Division 4
Preparation of Supplementary Assessments

Bylaw

313(1) If a municipality wishes to require the preparation of supplementary assessments for improvements, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 in the same year.

(2) A bylaw under subsection (1) must refer

(a) to all improvements, or

(b) to all designated manufactured homes in the municipality.

(3) A supplementary assessment bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year.

(4) A supplementary assessment bylaw must not authorize assessments to be prepared by the municipal assessor for designated industrial property.

RSA 2000 cM-26 s313;2016 c24 s135;2018 c11 s13

Supplementary assessment

314(1) The municipal assessor must prepare supplementary assessments for machinery and equipment used in manufacturing and processing if those improvements are operational in the year in which they are to be taxed under Part 10.

(2) The municipal assessor must prepare supplementary assessments for other improvements if

(a) they are completed in the year in which they are to be taxed under Part 10,

(b) they are occupied during all or any part of the year in which they are to be taxed under Part 10, or

(c) they are moved into the municipality during the year in which they are to be taxed under Part 10 and they will not be taxed in that year by another municipality.

(2.1) The municipal assessor may prepare a supplementary assessment for a designated manufactured home that is moved into the municipality during the year in which it is to be taxed under Part 10 despite that the designated manufactured home will be taxed in that year by another municipality.

(3) A supplementary assessment must reflect

(a) the value of an improvement that has not been previously assessed, or

(b) the increase in the value of an improvement since it was last assessed.

(4) Supplementary assessments must be prepared in the same manner as assessments are prepared under Division 1, but must be prorated to reflect only the number of months during which the improvement is complete, occupied, located in the municipality or in operation, including the whole of the first month in which the improvement was completed, was occupied, was moved into the municipality or began to operate.

RSA 2000 cM-26 s314;2016 c24 s43

Supplementary assessment re designated industrial property

314.1(1) Subject to the regulations, the provincial assessor must prepare supplementary assessments for new designated industrial property that becomes operational after October 31 of the year prior to the year in which the designated industrial property is to be taxed under Part 10.

(2) Supplementary assessments must reflect the valuation standard set out in the regulations for designated industrial property.

(3) Subject to the regulations, supplementary assessments for designated industrial property must be prorated to reflect only the number of months, including the whole of the first month, during which the property is operational.

(4) Despite subsections (1) to (3),

(a) a supplementary assessment must be prepared only for designated industrial property that has not been previously assessed, and only when it becomes operational;

(b) a supplementary assessment must not be prepared in respect of designated industrial property that ceases to operate during the tax year.

2016 c24 s44

Supplementary assessment roll

315(1) Before the end of the year in which supplementary assessments are prepared, the municipality must prepare a supplementary assessment roll.

(2) Before the end of the year in which supplementary assessments are prepared, the provincial assessor must prepare a supplementary assessment roll for designated industrial property.

(3) A supplementary assessment roll must show, for each assessed improvement or designated industrial property, the following:

(a) the same information that is required to be shown on the assessment roll;

(b) in the case of an improvement, the date that the improvement

(i) was completed, occupied or moved into the municipality, or

(ii) became operational.

(4) Sections 304, 305, 306 and 307 apply in respect of a supplementary assessment roll.

(5) The provincial assessor must provide a copy of the supplementary assessment roll for designated industrial property to the municipality.

RSA 2000 cM-26 s315;2016 c24 s45

Supplementary assessment notices

316(1) Before the end of the year in which supplementary assessments are prepared other than for designated industrial property, the municipality must

(a) prepare a supplementary assessment notice for every assessed improvement shown on the supplementary assessment roll referred to in section 315(1), and

(b) send the supplementary assessment notices to the assessed persons.

(2) Before the end of the year in which supplementary assessments for designated industrial property are prepared, the provincial assessor must

(a) prepare supplementary assessment notices for all assessed designated industrial property shown on the supplementary assessment roll referred to in section 315(2),

(b) send the supplementary assessment notices to the assessed persons in accordance with the regulations, and

(c) send the municipality copies of the supplementary assessment notices.

RSA 2000 cM-26 s316;2009 c29 s10;2016 c24 s45

Contents of supplementary assessment notice

316.1(1) A supplementary assessment notice must show, for each assessed improvement, the following:

(a) the same information that is required to be shown on the supplementary assessment roll;

(b) the notice of assessment date;

(c) a statement that the assessed person may file a complaint not later than the complaint deadline;

(d) information respecting filing a complaint in accordance with the regulations.

(2) Sections 308(2), 309(2), 310(1.1) and (3) and 312 apply in respect of supplementary assessment notices.

2016 c24 s45;2017 c13 s2(11)

Division 5
Equalized Assessments

Definition

317 In this Division, "equalized assessment" means an assessment that is prepared by the Minister in accordance with this Division for an entire municipality and reflects

(a) assessments of property in the municipality that is taxable under Part 10,

(b) repealed 2016 c24 s46,

(c) assessments of property in the municipality in respect of which a grant may be paid by the Crown in right of Canada under the *Payments in Lieu of Taxes Act* (Canada),

(d) assessments of property in the municipality made taxable or exempt as a result of a council passing a bylaw under Part 10, except any property made taxable under section 363(3), and

(e) assessments of property in the municipality that is the subject of a tax agreement under section 333.1, 360 or 364.1,

from the year preceding the year in which the equalized assessment is effective.

RSA 2000 cM-26 s317;2015 c8 s44;2016 c24 s46; 2024 c19 s12

Supplementary assessments

317.1 Despite section 317, supplementary assessments prepared under a supplementary assessment bylaw under section 313 must not be included in the equalized assessment for a municipality.

1995 c24 s44

Preparation of equalized assessments

318 The Minister must prepare annually, in accordance with the regulations, an equalized assessment for each municipality.

1994 cM-26.1 s318

Duty to provide information

319(1) Each municipality must provide to the Minister annually, not later than the date required by regulations made under section 322(1) or guidelines made under section 322(2), a return containing

the information requested by the Minister in the form required by the Minister.

(2) If a municipality does not provide the information requested by the Minister, the Minister must prepare the equalized assessment using whatever information is available about the municipality.

RSA 2000 cM-26 s319;2015 c8 s45

Sending equalized assessments to municipalities

320 The Minister must send to each municipality annually, not later than November 1, a report of all the equalized assessments prepared.

1994 cM-26.1 s320

Appeal of equalized assessment

321 A municipality may make a complaint regarding the amount of an equalized assessment to the Land and Property Rights Tribunal not later than 30 days from the date the Minister sends the municipality the report described in section 320.

RSA 2000 cM-26 s321;2002 c19 s12;2009 c29 s11;2015 c8 s46; 2020 cL-2.3 s24(41)

Division 6
General Powers of the Minister Relating to Assessments and Equalized Assessments

Regulations

322(1) The Minister may make regulations

(a) respecting qualifications to be met by persons authorized to carry out the duties and responsibilities of an assessor under this Act;

(b) defining “electric power systems”, “facilities”, “farming operations”, “farm building”, “machinery and equipment”, “operator”, “pipelines”, “railway property”, “street lighting systems”, “telecommunication systems” and “wells”;

(b.01) respecting when property is to be considered operational for the purposes of one or more provisions of this Part;

(b.1) defining “extended area network” and “SuperNet”;

(c) respecting the extent to which farm buildings and machinery and equipment may be assessed under section 298;

(c.1) respecting the assessment of linear property referred to in section 298(3), including, without limitation, respecting

information to be provided, and by whom it is to be provided, for preparing the assessment;

(d) establishing valuation standards for property;

(d.1) respecting the delegation of the powers, duties and functions of the provincial assessor under section 284.1 or of a municipal assessor under section 284.2;

(d.2) designating major plants and other property as designated industrial property;

(d.3) respecting designated industrial property, including, without limitation, regulations respecting the specifications and characteristics of designated industrial property;

(e) respecting processes and procedures for preparing assessments;

(e.1) respecting the manner in which an assessor must inform an owner or occupier of any property of the purpose for which information is being collected under sections 294 and 295;

(e.11) respecting the providing of information by the provincial assessor to a municipality under section 299.2, including, without limitation, regulations

(i) requiring the provincial assessor and the municipality to enter into a confidentiality agreement with respect to that information, and

(ii) respecting the terms and conditions of a confidentiality agreement;

(e.2) respecting assessment rolls and assessment notices including, without limitation, regulations

(i) respecting the information to be shown on an assessment roll and on an assessment notice;

(ii) providing for the method of determining the assessed person for the purposes of section 304(1);

(iii) respecting the sending of assessment notices;

(f) respecting the allowance of depreciation on machinery and equipment;

(g) prescribing standards to be met by assessors in the preparation of assessments;

(g.01) prescribing sub-classes for the purposes of section 297(2.1);

(g.1) prescribing or otherwise describing information for the purposes of sections 299(1), 299.1(1), 300(2)(f) and 300.1(2)(c);

(g.2) respecting procedures and time-lines to be followed by a municipality in dealing with a request for information under section 299 or a request for a summary of an assessment under section 300;

(g.3) respecting the imposition of penalties or other sanctions against a municipality for failing to comply with a request for information under section 299 or a request for a summary of an assessment under section 300;

(g.4) respecting the dates by which returns referred to in section 319(1) must be provided to the Minister;

(h) respecting equalized assessments;

(h.1) respecting the audit of any matters relating to assessments;

(h.2) respecting the providing of information to an assessor under section 295(1);

(h.3) respecting procedures and time-lines to be followed by a provincial assessor in dealing with a request for information under section 299.1 or 299.2 or a request for a summary of an assessment under section 300.1;

(h.4) respecting supplementary assessments;

(h.5) defining any term or expression that is used but not defined in this Part;

(i) respecting any other matter considered necessary to carry out the intent of this Act.

(2) Where the Minister considers it advisable to do so, the Minister may by order establish guidelines respecting any matter for which the Minister may make a regulation under subsection (1).

(3) A guideline established under subsection (2) is a regulation for the purposes of this Act, but is exempted from the application of the *Regulations Act*.

(4) The Minister must

(a) publish in The Alberta Gazette a notice of any guideline established under subsection (2) and information about where copies of the guideline may be obtained or are available to the public;

(b) ensure that any guideline established under subsection (2) is published in a form and manner that the Minister considers appropriate.

(5) Subsection (4) applies only to guidelines established under subsection (2) on or after July 1, 2007.

(6) In designating by regulation a major plant as designated industrial property, the Minister may include as a major plant any parcel of land, improvements or other property.

(7) The inclusion of property pursuant to subsection (6) is not invalid even if the property is used for residential or agricultural purposes, or is vacant.

(8) If an application is made to a court in respect of the validity of a regulation designating a major plant as designated industrial property,

(a) the application shall be limited to whether a specific parcel of land, improvement or other property for which the applicant is the assessed person is or is not all or a part of a major plant;

(b) evidence of the inclusion of property pursuant to subsection (6) or of property not designated as a major plant pursuant to subsection (6) is not admissible to demonstrate the invalidity of the regulation or any part of it.

RSA 2000 cM-26 s322;2002 c19 s14;2005 c14 s10;
2007 c16 s2;2009 c29 s12;2015 c8 s47;
2016 c24 s47;2017 c13 ss1(27), 2(12)

Validation of Minister's Guidelines

322.1(1) In this section,

(a) "Minister's Guidelines" means

(i) the following guidelines referred to in the *Matters Relating to Assessment and Taxation Regulation* (AR 220/2004):

(A) Alberta Assessment Quality Minister's Guidelines;

(B) Alberta Farm Land Assessment Minister's Guidelines;

(C) Alberta Linear Property Assessment Minister's Guidelines;

(D) Alberta Machinery and Equipment Assessment Minister's Guidelines;

(E) Alberta Railway Assessment Minister's Guidelines,

(ii) any previous versions of the guidelines named in subclause (i) that are referred to in the previous regulations, and

(iii) the 2005 Construction Cost Reporting Guide established by the Minister and any previous versions of the Construction Cost Reporting Guide established by the Minister,

and includes any manuals, guides and handbooks referred to or incorporated into any of the guidelines or guides referred to in subclauses (i) to (iii);

(b) "previous regulations" means

(i) the *Matters Relating to Assessment and Taxation Regulation* (AR 289/99), and

(ii) the *Standards of Assessment Regulation* (AR 365/94).

(2) The Minister's Guidelines are declared valid as of the dates on which they were established, and no assessment prepared pursuant to the Minister's Guidelines shall be challenged on the basis of the validity of the Minister's Guidelines

(a) in any existing or future proceeding under this or any other Act, or

(b) in any existing or future action, matter or proceeding before a court.

(3) The Minister's Guidelines are deemed to be guidelines established under section 322(2).

2007 c16 s3

Minister's power to prepare assessments

323 If it appears to the Minister that in any year a council will be unable to carry out its obligation under section 285, the Minister may cause any or all of the assessments in the municipality to be prepared and the council is responsible for the costs.

1994 cM-26.1 s323

Minister's power to quash assessments

324(1) If, after an inspection under section 571 or an audit under the regulations is completed, the Minister is of the opinion that an assessment

(a) has not been prepared in accordance with the rules and procedures set out in this Part and the regulations,

(b) is not fair and equitable, taking into consideration assessments of similar property, or

(c) does not meet the standards required by the regulations,

the Minister may quash the assessment and direct that a new assessment be prepared.

(2) On quashing an assessment, the Minister must provide directions as to the manner and times in which

(a) the new assessment is to be prepared,

(a.1) a new notice of assessment date is to be established,

(b) the new assessment is to be placed on the assessment roll, and

(c) amended assessment notices are to be sent to the assessed persons.

(3) The Minister must specify the effective date of a new assessment prepared under this section.

RSA 2000 cM-26 s324;2002 c19 s15;2017 c13 s1(28)

Minister's power to alter an equalized assessment

325 Despite anything in this Act, the Minister may adjust an equalized assessment at any time.

Continuous bylaws — assessment

325.1 Bylaws enacted under section 297 or 313 remain in force after the year in which they are enacted and apply in respect of subsequent years until they are repealed.

2019 c22 s10(10)

Part 10
Taxation

Division 1
General Provisions

Definitions

326(1) In this Part,

(a) "requisition" means

(i) repealed 1995 c24 s45,

(ii) any part of the amount required to be paid into the Alberta School Foundation Fund under section 167 of the *Education Act* that is raised by imposing a rate referred to in section 167 of the *Education Act*,

(iii) any part of the requisition of school boards under Part 6, Division 3 of the *Education Act*,

(iv) repealed 2008 cE-6.6 s55,

(v) the amount required to be paid to a management body under section 7 of the *Alberta Housing Act*, or

(vi) the amount required to recover the costs incurred for matters related to

(A) the assessment of designated industrial property, and

(B) any other matters related to the provincial assessor's operations;

(b) "student dormitory" means a housing unit

(i) that is used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature, and

(ii) the residents of which are students of a facility used in connection with a purpose referred to in section 362(1)(c), (d) or (e) or with a college incorporated under a private Act of the Legislature,

but does not include a single family residence and the land attributable to that residence;

(c) "tax arrears" means taxes that remain unpaid after December 31 of the year in which they are imposed.

(2) For purposes of Divisions 3 and 4, "business" does not include a constituency office of a Member of the Legislative Assembly or any other office used by one or more Members of the Legislative Assembly to carry out their duties and functions as Members.

RSA 2000 cM-26 s326;2008 cE-6.6 s55;2012 cE-0.3 s279; 2015 c8 s48;2016 c24 s48

Tax roll

327(1) Each municipality must prepare a tax roll annually.

(2) The tax roll may consist of one roll for all taxes imposed under this Part or a separate roll for each tax imposed under this Part.

(3) The tax roll for property tax may be a continuation of the assessment roll prepared under Part 9 or may be separate from the assessment roll.

(4) The fact that any information shown on the tax roll contains an error, omission or misdescription does not invalidate any other information on the roll or the roll itself.

1994 cM-26.1 s327

Duty to provide information

328 Taxpayers must provide, on request by the municipality, any information necessary for the municipality to prepare its tax roll.

1994 cM-26.1 s328

Contents of tax roll

329 The tax roll must show, for each taxable property or business, the following:

(a) a description sufficient to identify the location of the property or business;

(b) the name and mailing address of the taxpayer;

(c) the assessment;

(d) the name, tax rate and amount of each tax imposed in respect of the property or business;

(e) the total amount of all taxes imposed in respect of the property or business;

(f) the amount of tax arrears, if any;

(g) if any property in the municipality is the subject of an agreement between the taxpayer and the municipality under section 347(1) relating to tax arrears, a notation of that fact;

(g.1) if any property in the municipality is the subject of a bylaw or agreement under section 364.1 to defer the collection of tax, a notation of the amount deferred and the taxation year or years to which the amount relates;

(g.2) if any property in the municipality is the subject of a deferral granted under section 364.2, a notation of the amount deferred and the taxation year or years to which the amount relates;

(h) any other information considered appropriate by the municipality.

RSA 2000 cM-26 s329;2016 c24 s49;2019 c6 s6

Correction of roll

330(1) If it is discovered that there is an error, omission or misdescription in any of the information shown on the tax roll, the municipality may correct the tax roll for the current year only and on correcting the roll, it must prepare and send an amended tax notice to the taxpayer.

(2) If it is discovered that no tax has been imposed on a taxable property or business, the municipality may impose the tax for the current year only and prepare and send a tax notice to the taxpayer.

(3) If exempt property becomes taxable or taxable property becomes exempt under section 368, the municipality must correct the tax roll and on correcting the roll, it must send an amended tax notice to the taxpayer.

(4) The date of every entry made on the tax roll under this section must be shown on the roll.

1994 cM-26.1 s330

Person liable to pay taxes

331(1) Subject to subsection (3) and the regulations, the person liable to pay a property tax imposed under this Part is the person who

(a) at the time the assessment is prepared under Part 9, is the assessed person, or

(b) subsequently becomes the assessed person.

(2) The person liable to pay any other tax imposed under this Part is the person who

(a) at the time the tax is imposed, is liable in accordance with this Part or a regulation made under this Part to pay the tax, or

(b) subsequently becomes liable in accordance with this Part or a regulation made under this Part to pay it.

(3) If a tax on linear property or on machinery and equipment remains unpaid after the due date shown on the tax notice, the owner of the linear property or the machinery and equipment becomes liable, jointly and severally with the person who is the assessed person in respect of the linear property or machinery and equipment, to pay the tax debt.

RSA 2000 cM-26 s331;2005 c14 s11;2021 c22 s3

Taxes imposed on January 1

332 Taxes imposed under this Part, other than a supplementary property tax and a supplementary business tax, are deemed to have been imposed on January 1.

1994 cM-26.1 s332

Tax notices

333(1) Each municipality must annually

(a) prepare tax notices for all taxable property and businesses shown on the tax roll of the municipality, and

(b) send the tax notices to the taxpayers.

(2) A tax notice may include a number of taxable properties and taxable businesses if the same person is the taxpayer for all of them.

(3) A tax notice may consist of one notice for all taxes imposed under this Part, a separate notice for each tax or several notices showing one or more taxes.

(4) The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.

1994 cM-26.1 s333

Tax agreements

333.1(1) The council of a municipality may make a tax agreement with an assessed person who occupies or manages

(a) the municipality's property, including property under the direction, control and management of

(i) the municipality, or

(ii) a non-profit organization that holds the property on behalf of the municipality,

or

(b) property for the purpose of operating a professional sports franchise.

(2) A tax agreement may provide that, instead of paying the taxes imposed under this Part and any other fees or charges payable to the municipality, the assessed person may make an annual payment to the municipality calculated under the agreement.

(3) A tax agreement under this section must provide that the municipality accepts payment of the amount calculated under the agreement in place of the taxes and other fees or charges specified in the agreement.

1998 c24 s24

Contents of tax notice

334(1) A tax notice must show the following:

(a) the same information that is required to be shown on the tax roll;

(b) the date the tax notice is sent to the taxpayer;

(c) the amount of the requisitions, any one or more of which may be shown separately or as part of a combined total;

(d) except when the tax is a property tax, the date by which a complaint must be made, which date must not be less than 30 days after the tax notice is sent to the taxpayer;

(e) the name and address of the designated officer with whom a complaint must be filed;

(f) the dates on which penalties may be imposed if the taxes are not paid;

(f.1) information on how to request a receipt for taxes paid;

(g) any other information considered appropriate by the municipality.

(2) A tax notice may show

(a) one tax rate that combines all of the tax rates set by the property tax bylaw, or

(b) each of the tax rates set by the property tax bylaw.

(3) Despite subsection (2), a tax notice must show, separately from all other tax rates shown on the notice, the tax rates set by the

property tax bylaw to raise the revenue to pay the requisitions referred to in section 326(1)(a)(ii) or (vi).

RSA 2000 cM-26 s334;2016 c24 s50;2017 c13 s1(29)

Sending tax notices

335(1) The tax notices must be sent before the end of the year in which the taxes are imposed.

(2) If the mailing address of a taxpayer is unknown

(a) a copy of the tax notice must be sent to the mailing address of the taxable property or business, and

(b) if the mailing address of the taxable property or business is also unknown, the tax notice must be retained by the municipality and is deemed to have been sent to the taxpayer.

1994 cM-26.1 s335

Certification of date of sending tax notice

336(1) A designated officer must certify the date the tax notices are sent under section 335.

(2) The certification of the date referred to in subsection (1) is evidence that the tax notices have been sent and that the taxes have been imposed.

1994 cM-26.1 s336

Deemed receipt of tax notice

337 A tax notice is deemed to have been received 7 days after it is sent.

1994 cM-26.1 s337

Correction of tax notice

338 If it is discovered that there is an error, omission or misdescription in any of the information shown on a tax notice, the municipality may prepare and send an amended tax notice to the taxpayer.

1994 cM-26.1 s338

Incentives

339 A council may by bylaw provide incentives for payment of taxes by the dates set out in the bylaw.

1994 cM-26.1 s339

Instalments

340(1) A council may by bylaw permit taxes to be paid by instalments, at the option of the taxpayer.

(2) A person who wishes to pay taxes by instalments must make an agreement with the council authorizing that method of payment.

(3) When an agreement under subsection (2) is made, the tax notice, or a separate notice enclosed with the tax notice, must state

(a) the amount and due dates of the instalments to be paid in the remainder of the year, and

(b) what happens if an instalment is not paid.

1994 cM-26.1 s340

Deemed receipt of tax payment

341 A tax payment that is sent by mail to a municipality is deemed to have been received by the municipality on the date of the postmark stamped on the envelope.

1994 cM-26.1 s341

Receipt for payment of taxes

342 When taxes are paid to a municipality and the person who paid the tax requests a receipt, the municipality must provide a receipt.

RSA 2000 cM-26 s342;2017 c13 s1(30);2021 c22 s4

Application of tax payment

343(1) A tax payment must be applied first to tax arrears.

(2) If a person does not indicate to which taxable property or business a tax payment is to be applied, a designated officer must decide to which taxable property or business owned by the taxpayer the payment is to be applied.

1994 cM-26.1 s343

Penalty for non-payment in current year

344(1) A council may by bylaw impose penalties in the year in which a tax is imposed if the tax remains unpaid after the date shown on the tax notice.

(2) A penalty under this section is imposed at the rate set out in the bylaw.

(3) The penalty must not be imposed sooner than 30 days after the tax notice is sent out.

1994 cM-26.1 s344

Penalty for non-payment in other years

345(1) A council may by bylaw impose penalties in any year following the year in which a tax is imposed if the tax remains unpaid after December 31 of the year in which it is imposed.

(2) A penalty under this section is imposed at the rate set out in the bylaw.

(3) The penalty must not be imposed sooner than January 1 of the year following the year in which the tax was imposed or any later date specified in the bylaw.

1994 cM-26.1 s345

Penalties

346 A penalty imposed under section 344 or 345 is part of the tax in respect of which it is imposed.

1994 cM-26.1 s346

Cancellation, reduction, refund or deferral of taxes

347(1) If a council considers it equitable to do so, it may, generally or with respect to a particular taxable property or business or a class of taxable property or business, do one or more of the following, with or without conditions:

(a) cancel or reduce tax arrears;

(b) cancel or refund all or part of a tax;

(c) defer the collection of a tax.

(2) A council may phase in a tax increase or decrease resulting from the preparation of any new assessment.

1994 cM-26.1 s347

Tax becomes debt to municipality

348 Taxes due to a municipality

(a) are an amount owing to the municipality,

(b) are recoverable as a debt due to the municipality,

(c) take priority over the claims of every person except the Crown, and

(d) are a special lien

(i) on land and any improvements to the land, if the tax is a property tax, a community revitalization levy, a special tax, a clean energy improvement tax, a local improvement tax or a community aggregate payment levy, or

(ii) on goods, if the tax is a business tax, a community revitalization levy, a well drilling equipment tax, a community aggregate payment levy or a property tax

imposed in respect of a designated manufactured home in a manufactured home community.

RSA 2000 cM-26 s348;2005 c14 s12;2018 c6 s5

Special priority lien for tax debt on linear property or machinery and equipment

348.1(1) In this section,

(a) "assessable", in respect of property or improvements, means property or improvements that have been or are subject to being assessed under Part 9;

(b) "debtor" means a person who owes a debt to a municipality for tax on linear property or on machinery and equipment.

(2) Notwithstanding section 348(c) and (d), taxes due to a municipality on linear property or on machinery and equipment

(a) take priority over the claims of every person except the Crown, and

(b) are a special lien on all the debtor's assessable property located within the municipality, including any assessable improvements to that property.

(3) A lien referred to in subsection (2)(b)

(a) arises when the debtor fails to satisfy the debt when due, and

(b) expires on full satisfaction of the debt.

(4) This section applies to a debt for taxes referred to in subsection (2) regardless of whether the debt became due before or after the coming into force of this section.

2021 c22 s5

Fire insurance proceeds

349(1) Taxes that have been imposed in respect of improvements are a first charge on any money payable under a fire insurance policy for loss or damage to those improvements.

(2) Taxes that have been imposed in respect of a business are a first charge on any money payable under a fire insurance policy for loss or damage to any personal property

(a) that is located on the premises occupied for the purposes of the business, and

(b) that is used in connection with the business and belongs to the taxpayer.

1994 cM-26.1 s349

Tax certificates

350 On request, a designated officer must issue a tax certificate showing

(a) the amount of taxes imposed in the year in respect of the property or business specified on the certificate and the amount of taxes owing,

(b) the total amount of tax arrears, if any, and

(c) the total amount of tax, if any, in respect of which collection is deferred under this Part.

RSA 2000 cM-26 s350;2016 c24 s51

Non-taxable property

351(1) The following are exempt from taxation under this Part:

(a) property listed in section 298;

(b) any property or business in respect of which an exemption from assessment or taxation, or both, was granted before January 1, 1995

(i) by a private Act, or

(ii) by an order of the Lieutenant Governor in Council based on an order of the Local Authorities Board.

(2) A council may by bylaw cancel an exemption referred to in subsection (1)(b), with respect to any property or business.

(3) A council proposing to pass a bylaw under subsection (2) must notify the person or group that will be affected of the proposed bylaw.

(4) A bylaw under subsection (2) has no effect until the expiration of one year after it is passed.

(5) A copy of a bylaw under subsection (2) must be sent to the Minister and if the bylaw amends a private Act the Minister must send a copy to the clerk of the Legislative Assembly.

1994 cM-26.1 s351

Limitation on time for starting proceedings

352(1) An action, suit or other proceedings for the return by a municipality of any money paid to the municipality, whether under

protest or otherwise, as a result of a claim by the municipality, whether valid or invalid, for payment of taxes or tax arrears must be started within 6 months after the payment of the money to the municipality.

(2) If no action, suit or other proceeding is started within the period referred to in subsection (1), the payment made to the municipality is deemed to have been a voluntary payment.

1994 cM-26.1 s352

Division 2
Property Tax

Property tax bylaw

353(1) Each council must pass a property tax bylaw annually.

(2) The property tax bylaw authorizes the council to impose a tax in respect of property in the municipality to raise revenue to be used toward the payment of

(a) the expenditures and transfers set out in the budget of the municipality, and

(b) the requisitions.

(3) The tax must not be imposed in respect of property

(a) that is exempt under section 351, 361, 362 or 364, or

(b) that is exempt under section 363, unless the bylaw passed under that section makes the property taxable.

RSA 2000 cM-26 s353;2024 c19 s12

Tax rates

354(1) The property tax bylaw must set and show separately all of the tax rates that must be imposed under this Division to raise the revenue required under section 353(2).

(2) A tax rate must be set for each assessment class or sub-class referred to in section 297.

(3) The tax rate may be different for each assessment class or sub-class referred to in section 297.

(3.1) Despite subsection (3),

(a) the tax rate set for the class referred to in section 297(1)(d) to raise the revenue required under section 353(2)(a) must be equal to the tax rate set for property referred to in section 297(3.1)(c) to raise revenue for that purpose, and

(b) the tax rate set for property referred to in section 297(3.1)(b)

(i) must not be less than 75% of the tax rate for property referred to in section 297(3.1)(c), and

(ii) must not be greater than the tax rate for property referred to in section 297(3.1)(c).

(4) The tax rates set by the property tax bylaw must not be amended after the municipality sends the tax notices to the taxpayers unless subsection (5) applies.

(5) If after sending out the tax notices the municipality discovers an error or omission that relates to the tax rates set by the property tax bylaw, the municipality may

(a) amend the property tax bylaw to the extent necessary to correct the error or omission, and

(b) send out amended tax notices, if required as a result of the corrections to the property tax bylaw.

(6) A municipality must, within 30 days after passing a property tax bylaw amendment under subsection (5), provide the Minister with a copy of the amended bylaw.

RSA 2000 cM-26 s354;2016 c24 s52;2019 c22 s10(11);2022 c16 s9(65)

Calculating tax rates

355 A tax rate is calculated by dividing the amount of revenue required by the total assessment of all property on which that tax rate is to be imposed.

1994 cM-26.1 s355;1995 c24 s47

Calculating amount of tax

356 The amount of tax to be imposed under this Division in respect of a property is calculated by multiplying the assessment for the property by the tax rate to be imposed on that property.

1994 cM-26.1 s356

Special provision of property tax bylaw

357(1) Despite anything in this Division, the property tax bylaw may specify a minimum amount payable as property tax.

(1.1) Despite section 353, a council may pass a bylaw separate from the property tax bylaw that provides for compulsory tax instalment payments for designated manufactured homes.

(2) If the property tax bylaw specifies a minimum amount payable as property tax, the tax notice must indicate the tax rates set by the

property tax bylaw that raise the revenue required to pay the requisition referred to in section 326(1)(a)(ii).

RSA 2000 cM-26 s357;2016 c24 s53

Tax rate for residential property

357.1 The tax rate to be imposed by a municipality on residential property or on any sub-class of residential property must be greater than zero.

2016 c24 s54

358 Repealed 2016 c24 s55.

Maximum tax ratio

358.1(1) In this section,

(a) "non-conforming municipality" means a municipality that has a tax ratio greater than 5:1 as calculated using the property tax rates set out in its most recently enacted property tax bylaw as at May 31, 2016;

(b) "non-residential" means non-residential as defined in section 297(4);

(c) "tax ratio", in respect of a municipality, means the ratio of the highest non-residential tax rate set out in the municipality's property tax bylaw for a year to the lowest residential tax rate set out in the municipality's property tax bylaw for the same year.

(2) No municipality other than a non-conforming municipality shall in any year have a tax ratio greater than 5:1.

(3) A non-conforming municipality shall not in any year have a tax ratio that is greater than the tax ratio as calculated using the property tax rates set out in its most recently enacted property tax bylaw as at May 31, 2016.

(3.1) If in any year after 2016 a non-conforming municipality has a tax ratio that is greater than 5:1, the non-conforming municipality shall reduce its tax ratio for subsequent years in accordance with the regulations.

(4) If in any year after 2016 a non-conforming municipality has a tax ratio that is less than the tax ratio it had in the previous year but greater than 5:1, the non-conforming municipality shall not in any subsequent year have a tax ratio that is greater than that new tax ratio.

(5) If in any year after 2016 a non-conforming municipality has a tax ratio that is equal to or less than 5:1, the non-conforming municipality shall not in any subsequent year have a tax ratio greater than 5:1.

(6) Where an order to annex land to a municipality contains provisions respecting the tax rate or rates that apply to the annexed land, the tax rate or rates shall not be considered for the purposes of determining the municipality's tax ratio.

(7) For the purposes of this section,

(a) the tax set out in a municipality's property tax bylaw to raise revenue to be used toward the payment of

(i) the expenditures and transfers set out in the budget of the municipality, and

(ii) the requisitions,

shall be considered to be separate tax rates, and

(b) the tax rate for the requisitions shall not be considered for the purposes of determining the municipality's tax ratio.

(8) The Lieutenant Governor in Council may, for the purposes of subsection (3.1), make regulations establishing one or more ranges of tax ratios that must be reduced to 5:1 within a specified period.

2016 c24 s56;2017 c13 s1(31)

Requisitions

359(1) When a requisition applies to only part of a municipality, the revenue needed to pay it must be raised by imposing a tax under this Division in respect of property in that part of the municipality.

(2) In calculating the tax rate required to raise sufficient revenue to pay the requisitions, a municipality may include an allowance for non-collection of taxes at a rate not exceeding the actual rate of taxes uncollected from the previous year's tax levy as determined at the end of that year.

(3) If in any year the property tax imposed to pay the requisitions results in too much or too little revenue being raised for that purpose, the council must accordingly reduce or increase the amount of revenue to be raised for that purpose in the next year.

1994 cM-26.1 s359;1995 c24 s49

Alberta School Foundation Fund requisitions

359.1(1) In this section, "Alberta School Foundation Fund requisition" means a requisition referred to in section 326(1)(a)(ii).

(2) In 1995 and subsequent years, when an Alberta School Foundation Fund requisition applies only to

(a) one of the assessment classes referred to in section 297,

(b) a combination of the assessment classes referred to in section 297, or

(c) designated industrial property,

the revenue needed to pay it must be raised by imposing a tax under this Division only in respect of property to which that one assessment class has been assigned, property to which any assessment class in that combination has been assigned or designated industrial property, as the case may be.

(3) Despite subsection (2), if a council has passed bylaws under sections 364(1.1) and 371, the council may apply an appropriate amount received under the business tax to the payment of the Alberta School Foundation Fund requisition on the non-residential assessment class referred to in section 297 to offset the increase in the tax rate applicable to that class that would otherwise result.

(4) The tax rate required to raise the revenue needed to pay the Alberta School Foundation Fund requisition

(a) must be the same within the assessment class to which the requisition applies if it applies to only one class,

(b) must be the same for all assessment classes that are to be combined if the requisition applies to a combination of assessment classes, and

(c) must be the same for all designated industrial property.

(5), **(6)** Repealed by Revision.

(7) In calculating the tax rate required to raise sufficient revenue to pay an Alberta School Foundation Fund requisition, a municipality

(a) must not include the allowances referred to in section 359(2),

(b) may impose a separate tax to raise the revenue to pay for the allowances referred to in section 359(2), and

(c) may include the amounts referred to in section 359(3).

(8) Section 354 does not apply to tax rates required to raise revenue needed to pay an Alberta School Foundation Fund requisition.

RSA 2000 cM-26 s359.1;2016 c24 s135;2017 c13 s1(32)

School board requisitions

359.2(1) In this section, "school board requisition" means a requisition referred to in section 326(1)(a)(iii).

(2) In 1995 and subsequent years, when a school board requisition applies only to

(a) one of the assessment classes referred to in section 297,

(b) a combination of the assessment classes referred to in section 297, or

(c) designated industrial property,

the revenue needed to pay it must be raised by imposing a tax under this Division only in respect of property to which that one assessment class has been assigned, property to which any assessment class in that combination has been assigned or designated industrial property, as the case may be.

(3) Despite subsection (2), if a council has passed bylaws under sections 364(1.1) and 371, the council may apply an appropriate amount received under the business tax to the payment of the school board requisition on the non-residential assessment class referred to in section 297 to offset the increase in the tax rate applicable to that class that would otherwise result.

(4) The tax rate required to raise the revenue needed to pay the school board requisitions

(a) must be the same within the assessment class to which the requisition applies if it applies to only one class,

(b) must be the same for all assessment classes that are to be combined if the requisition applies to a combination of assessment classes, and

(c) must be the same for all designated industrial property.

(5), (6) Repealed by Revision.

(7) In calculating the tax rate required to raise sufficient revenue to pay a school board requisition, a municipality

(a) may include the allowances referred to in section 359(2), and

(b) may include the amounts referred to in section 359(3).

(8) Section 354 does not apply to tax rates required to raise revenue needed to pay school board requisitions.

RSA 2000 cM-26 s359.2;2016 c24 s135;2017 c13 s1(33)

Designated industrial property assessment requisitions

359.3(1) In this section, "designated industrial property requisition" means a requisition referred to in section 326(1)(a)(vi).

(2) The Minister must set the property tax rate for the designated industrial property requisition.

(3) The property tax rate for the designated industrial property requisition must be the same for all designated industrial property.

2016 c24 s57

Cancellation, reduction, refund or deferral of taxes

359.4 If the Minister considers it equitable to do so, the Minister may, generally or with respect to a particular municipality, cancel or reduce the amount of a requisition payable under section 326(1)(a)(vi).

2016 c24 s57

Tax agreement

360(1) In this section, "electric distribution system", "electricity" and "transmission system" have the meanings given to them in the *Electric Utilities Act*.

(1.1) A council may make a tax agreement with an operator of a public utility or of linear property who occupies the municipality's property, including property under the direction, control and management of the municipality.

(2) Instead of paying the tax imposed under this Division and any other fees or charges payable to the municipality, the tax agreement may provide for an annual payment to the municipality by the operator calculated as provided in the agreement.

(3) A tax agreement must provide that the municipality accepts payment of the amount calculated under the agreement in place of the tax and other fees or charges specified in the agreement.

(4) If a tax agreement with the operator of a public utility that supplies fuel provides for the calculation of the payment as a

percentage of the gross revenue of the public utility, that gross revenue is the gross revenue of the public utility for the year.

(4.01) No tax agreement with an operator referred to in subsection (4) may provide for the use, in calculating the whole or part of the payment, of a price per gigajoule of fuel that varies periodically according to the market price for fuel.

(4.1) If a tax agreement with the operator of a public utility that transports electricity by way of a transmission system, an electric distribution system or both provides for the calculation of the payment as a percentage of the gross revenue of the public utility, that gross revenue is the gross revenue received by the public utility under its distribution tariff for the year.

(4.2) No tax agreement with an operator referred to in subsection (4.1) may provide for the use, in calculating the whole or part of the payment, of a price per kilowatt hour of electricity that varies periodically according to the market price for electricity.

(5) An agreement under this section with an operator who is subject to regulation by the Alberta Utilities Commission is of no effect unless it is approved by the Alberta Utilities Commission.

(6) An agreement made under this section before the coming into force of this subsection, and that continues in effect after the coming into force of this subsection, with an operator referred to in subsection (4) or (4.1) who was not, before the coming into force of this subsection, subject to regulation by the Alberta Utilities Commission must be submitted to the Alberta Utilities Commission for approval by the Alberta Utilities Commission.

RSA 2000 cM-26 s360;2007 cA-37.2 s82(17);2024 c8 s5

Exemptions based on use of property

361 The following are exempt from taxation under this Division:

(a) repealed 1996 c30 s27;

(b) residences and farm buildings to the extent prescribed in the regulations;

(c) environmental reserves, conservation reserves, municipal reserves, school reserves, municipal and school reserves and other undeveloped property reserved for public utilities.

RSA 2000 cM-26 s361;2017 c13 s1(34)

Exemptions for Government, churches and other bodies

362(1) The following are exempt from taxation under this Division:

(a) any interest held by the Crown in right of Alberta or Canada in property other than property that is held by a Provincial corporation as defined in the *Financial Administration Act*;

(b) property held by a municipality, except the following:

(i) property from which the municipality earns revenue and which is not operated as a public benefit;

(ii) property that is operated as a public benefit but that has annual revenue that exceeds the annual operating costs;

(iii) an electric power system;

(iv) a telecommunications system;

(v) a natural gas or propane system located in a hamlet, village, summer village, town or city or in a school division that is authorized under the *Education Act* to impose taxes and has a population in excess of 500 people;

(c) property, other than a student dormitory, used in connection with school purposes and held by

(i) the board of trustees of a school division,

(i.1) the Francophone regional authority of a Francophone education region established under the *Education Act*,

(i.2) the operator of a charter school established under the *Education Act*, or

(ii) the person responsible for the operation of a private school registered under the *Education Act*;

(d) property, other than a student dormitory, used in connection with educational purposes and held by any of the following:

(i) the board of governors of a university, polytechnic institution or comprehensive community college under the *Post-secondary Learning Act*;

(ii) the governing body of an educational institution affiliated with a university under the *Post-secondary Learning Act*;

(iii) a students association or graduate students association of a university under the *Post-secondary Learning Act*;

(iv) a students association of a polytechnic institution or comprehensive community college under the *Post-secondary Learning Act*;

(v) the board of governors of the Banff Centre under the *Post-secondary Learning Act*;

(e) property, other than a student dormitory, used in connection with hospital purposes and held by a hospital board that receives financial assistance from the Crown;

(f) property held by a regional services commission;

(g) repealed by RSA 2000;

(g.1) property used in connection with provincial health agency or regional health authority purposes and held by a provincial health agency or regional health authority under the *Provincial Health Agencies Act* that receives financial assistance from the Crown under any Act;

(h) property

(i) used in connection with the purposes of a continuing care home in respect of which a type A continuing care home licence has been issued under the *Continuing Care Act*, and

(ii) held by the owner or under a lease from the owner of a continuing care home referred to in subclause (i);

(i) repealed 1998 c24 s29;

(j) property used in connection with library purposes and held by a library board established under the *Libraries Act*;

(k) property held by a religious body and used chiefly for divine service, public worship or religious education and any parcel of land that is held by the religious body and used only as a parking area in connection with those purposes;

(l) property consisting of any of the following:

(i) a parcel of land, to a maximum of 10 hectares, that is used as a cemetery as defined in the *Cemeteries Act*;

(ii) any additional land that has been conveyed by the owner of the cemetery to individuals to be used as burial sites;

(iii) any improvement on land described in subclause (i) or (ii) that is used for burial purposes;

(m) property held by

(i) a foundation constituted under the *Senior Citizens Housing Act*, RSA 1980 cS-13, before July 1, 1994, or

(ii) a management body established under the *Alberta Housing Act*,

and used to provide senior citizens with lodge accommodation as defined in the *Alberta Housing Act*;

(n) property that is

(i) owned by a municipality and held by a non-profit organization in an official capacity on behalf of the municipality,

(ii) held by a non-profit organization and used solely for community games, sports, athletics or recreation for the benefit of the general public,

(iii) used for a charitable or benevolent purpose that is for the benefit of the general public, and owned by

(A) the Crown in right of Alberta or Canada, a municipality or any other body that is exempt from taxation under this Division and held by a non-profit organization, or

(B) by a non-profit organization,

(iv) held by a non-profit organization and used to provide senior citizens with lodge accommodation as defined in the *Alberta Housing Act*, or

(v) held by and used in connection with a society as defined in the *Agricultural Societies Act* or with a community association as defined in the regulations,

and that meets the qualifications and conditions in the regulations and any other property that is described and that meets the qualifications and conditions in the regulations;

(o) property

(i) owned by a municipality and used solely for the operation of an airport by the municipality, or

(ii) held under a lease, licence or permit from a municipality and used solely for the operation of an airport by the lessee, licensee or permittee;

(p) a municipal seed cleaning plant constructed under an agreement authorized by section 7 of the *Agricultural Service Board Act*, to the extent of 2/3 of the assessment prepared under Part 9 for the plant, but not including the land attributable to the plant.

(2) Except for properties described in subsection (1)(n)(i), (ii) or (iv), a council may by bylaw make any property that is exempt from taxation under subsection (1)(n) subject to taxation under this Division to any extent the council considers appropriate.

(3) A council proposing to pass a bylaw under subsection (2) must notify, in writing, any person or group that will be affected of the proposed bylaw.

(4) A bylaw under subsection (2) has no effect until one year after it is passed.

RSA 2000 cM-26 s362;2003 cP-19.5 s142;2012 cE-0.3 s279;
2017 c13 s1(35);2018 c19 s71;2022 cC-26.7 s74.1;2024 c10 s31

Electric energy generation systems exemptions

362.1 Despite sections 359.1(4) and 359.2(4), the Minister may by order exempt, in respect of a taxation year, to any extent the Minister considers appropriate, one or more electric power systems used or intended for use in the generation or gathering of electricity from taxation for the purpose of raising the revenue needed to pay the requisitions referred to in section 326(1)(a)(ii) and (iii).

2017 c13 s1(36)

Exempt property that can be made taxable

363(1) The following are exempt from taxation under this Division:

(a) property held by and used in connection with Ducks Unlimited (Canada) under a lease, licence or permit from the Crown in right of Alberta or Canada;

(b) property held by and used in connection with

(i) the Canadian Hostelling Association -- Northern Alberta District,

(ii) the Southern Alberta Hostelling Association,

(iii) Hostelling International -- Canada -- Northern Alberta, or

(iv) Hostelling International -- Canada -- Southern Alberta,

unless the property is operated for profit or gain;

(c) property held by and used in connection with a branch or local unit of the Royal Canadian Legion, the Army, Navy and Air Force Veterans in Canada or other organization of former members of any allied forces;

(d) student dormitories;

(e) affordable housing accommodation as defined in the *Alberta Housing Act* that is not exempt under section 361 of this Act.

(2) A council may by bylaw make any property listed in subsection (1)(a), (b) or (c) subject to taxation under this Division to any extent the council considers appropriate.

(3) A council may by bylaw make any property referred to in subsection (1)(d) or (e) subject to taxation to any extent the council considers appropriate other than for the purpose of raising revenue needed to pay the requisitions referred to in section 326(1)(a).

(4) A council proposing to pass a bylaw under subsection (2) must notify, in writing, the person or group that will be affected of the proposed bylaw.

(5) A bylaw under subsection (2) has no effect until the expiration of one year after it is passed.

RSA 2000 cM-26 s363;2017 c13 s1(37);2024 c11 s2(25)

Exemptions granted by bylaw

364(1) A council may by bylaw exempt from taxation under this Division property held by a non-profit organization.

(1.1) A council may by bylaw exempt from taxation under this Division machinery and equipment used for manufacturing or processing.

(2) Property is exempt under this section to any extent the council considers appropriate.

1994 cM-26.1 s364;1995 c24 s53

Brownfield tax incentives

364.1(1) In this section, "brownfield property" means property, other than designated industrial property, that

(a) is a commercial or industrial property when a bylaw under subsection (2) is made or an agreement under subsection

(11) is entered into in respect of the property, or was a commercial or industrial property at any earlier time, and

(b) in the opinion of the council making the bylaw,

(i) is, or possibly is, contaminated,

(ii) is vacant, derelict or under-utilized, and

(iii) is suitable for development or redevelopment for the general benefit of the municipality when a bylaw under subsection (2) is made or an agreement under subsection (11) is entered into in respect of the property.

(2) A council may by bylaw, for the purpose of encouraging development or redevelopment for the general benefit of the municipality, provide for

(a) full or partial exemptions from taxation under this Division for brownfield properties, or

(b) deferrals of the collection of tax under this Division on brownfield properties.

(3) A bylaw under subsection (2)

(a) must identify the brownfield properties in respect of which an application may be made for a full or partial exemption or for a deferral,

(b) may set criteria to be met for a brownfield property to qualify for an exemption or deferral,

(c) must specify the taxation year or years for which the identified brownfield properties may qualify for an exemption or deferral, and

(d) must specify any conditions the breach of which cancels an exemption or deferral and the taxation year or years to which the condition applies.

(4) Before giving second reading to a bylaw proposed to be made under subsection (2), a council must hold a public hearing with respect to the proposed bylaw in accordance with section 216.4 after giving notice of it in accordance with section 606.

(5) An owner of brownfield property identified in a bylaw under subsection (2) may apply in the form and manner required by the municipality for an exemption or deferral in respect of the property.

(6) If after reviewing the application a designated officer of the municipality determines that the brownfield property meets the requirements of the bylaw for a full or partial exemption or for a deferral of the collection of tax under this Division, the designated officer may issue a certificate granting the exemption or deferral.

(7) The certificate must set out

(a) the taxation years to which the exemption or deferral applies, which must not include any tax year earlier than the tax year in which the certificate is issued,

(b) in the case of a partial exemption, the extent of the exemption, and

(c) all criteria, conditions and taxation years specified in the bylaw in accordance with subsection (3).

(8) If at any time after an exemption or deferral is granted under a bylaw under this section a designated officer of the municipality determines that the property did not meet or has ceased to meet a criterion referred to in subsection (3)(b) or that a condition referred to in subsection (3)(d) has been breached, the designated officer must cancel the exemption or deferral for the taxation year or years in which the criterion was not met or to which the condition applies.

(9) Where a designated officer refuses to grant an exemption or deferral, a written notice of the refusal must be sent to the applicant stating the reasons for the refusal and the date by which any complaint must be made, which date must be 60 days after the written notice of refusal is sent.

(10) An exemption or deferral granted under a bylaw under this section remains valid, subject to subsection (8) and the criteria and conditions on which it was granted, regardless of whether the bylaw is subsequently amended or repealed or otherwise ceases to have effect.

(11) Despite subsections (2) to (10), a council may enter into an agreement with the owner of a brownfield property

(a) exempting, either fully or partially, the brownfield property from taxation under this Division, or

(b) deferring the collection of tax under this Division on the brownfield property.

(12) The agreement must specify

(a) the taxation years to which the exemption or deferral applies, which must not include any tax year earlier than the one in which the agreement is entered into,

(b) the conditions on which the exemption or deferral is granted, and

(c) the consequences, rights and remedies arising in the event of any breach.

(13) Before voting on a resolution to enter into an agreement referred to in subsection (11), a council must hold a public hearing with respect to the proposed agreement in accordance with section 216.4 after giving notice of it in accordance with section 606.

2016 c24 s58;2022 c16 s9(83)

Tax incentives for non-residential property

364.2(1) In this section,

(a) "deferral" means a deferral under this section;

(b) "exemption" means an exemption under this section.

(c) repealed 2019 c21 s2.

(1.1) A council may, by bylaw, for the purpose of encouraging residential development and the provision of housing in an assessment class specified in section 297(1)(a) for the general benefit of the municipality, provide for

(a) full or partial exemptions from taxation under this Division for property in that assessment class, or

(b) deferrals of the collection of tax under this Division on property referred to in clause (a).

(2) A council may, by bylaw, for the purpose of encouraging the development or revitalization of properties in an assessment class specified in section 297(1)(b) or (d) for the general benefit of the municipality, provide for

(a) full or partial exemptions from taxation under this Division for property in one or both of those assessment classes, or

(b) deferrals of the collection of tax under this Division on property referred to in clause (a).

(3) A bylaw under subsection (1.1) or (2)

(a) must set criteria to be met for property to qualify for an exemption or deferral,

(b) must establish a process for the submission and consideration of applications for an exemption or deferral,

(c) must not provide for an exemption or deferral to have effect in respect of a property for more than 15 consecutive taxation years, but may, if the council considers it appropriate, provide for subsequent exemptions or deferrals of 15 consecutive taxation years or less to be applied for and granted in respect of the property, and

(d) if the bylaw provides for any person other than the council, including a designated officer, to refuse to grant an exemption or deferral or to cancel an exemption or deferral, must establish a process for applications to the council for the review of those decisions and must specify the period of time within which the application must be made.

(4) If after reviewing an application the municipality determines that the property meets the requirements for a full or partial exemption or for a deferral, the municipality may grant the exemption or deferral.

(5) An exemption or deferral must be granted in a written form that specifies

(a) the taxation years to which the exemption or deferral applies, which must not include any taxation year earlier than the taxation year in which the exemption or deferral is granted,

(b) in the case of a partial exemption, the extent of the exemption, and

(c) any condition the breach of which will result in cancellation under subsection (6) and the taxation year or years to which the condition applies.

(6) If at any time after an exemption or deferral is granted under a bylaw under this section the municipality determines that the property did not meet or has ceased to meet a criterion referred to in subsection (3)(a) or that a condition referred to in subsection (5)(c) has been breached, the municipality may cancel the exemption or deferral for the taxation year or years in which the criterion was not met or to which the condition applies.

(7) Where a municipality refuses to grant or cancels an exemption or deferral, the municipality must send a written notice to the

applicant stating the reasons for the refusal or cancellation and, if a review of the decision is available under subsection (3)(d), the date by which any application for that review must be made.

(8) Where a municipality grants or cancels an exemption or deferral in respect of designated industrial property, the municipality must notify the provincial assessor and provide any other information requested by the provincial assessor respecting the exemption, deferral or cancellation.

(9) Subject to subsection (6), any order referred to in section 127(1.1) and the criteria and conditions on which an exemption or deferral was granted, the exemption or deferral remains valid regardless of whether the bylaw under which it was granted is subsequently amended or repealed or otherwise ceases to have effect.

2019 c6 s7;2019 c21 s2;2024 c11 s2(26)

Judicial review of decision under section 364.2

364.3(1) Where a decision made under a bylaw under section 364.2 in respect of an exemption or deferral is the subject of an application for judicial review, the application must be filed with the Court of King's Bench and served not more than 60 days after the date of the decision.

(2) No councillor, designated officer or other person who makes a decision under a bylaw under section 364.2 is liable for costs by reason of or in respect of a judicial review of the decision.

2019 c6 s7;AR 217/2022

Licensed premises

365(1) Property that is licensed under the *Gaming, Liquor and Cannabis Act* is not exempt from taxation under this Division, despite sections 351(1)(b) and 361 to 364.1 and any other Act.

(2) Despite subsection (1), property listed in section 362(1)(n) in respect of which a licence that is specified in the regulations has been issued is exempt from taxation under this Division.

RSA 2000 cM-26 s365;2016 c24 s59;2017 c21 s28

Grants in place of taxes

366(1) Each year a municipality may apply to the Crown for a grant if there is property in the municipality that the Crown has an interest in.

(2) The Crown may pay to the municipality a grant not exceeding the amount that would be recoverable by the municipality if the property that the Crown has an interest in were not exempt from taxation under this Division.

(3) When calculating a grant under this section, the following must not be considered as Crown property unless subsection (4) applies:

(a) property listed in section 298;

(b) museums and historical sites;

(c) public works reserves;

(d) property used in connection with academic, trade, forestry or agricultural schools, colleges or universities, including student dormitories;

(e) property used in connection with hospitals and institutions for mentally disabled persons;

(f) property owned by an agent of the Crown in respect of which another enactment provides for payment of a grant in place of a property tax;

(g) property in respect of which the Crown is not the assessed person.

(4) If any of the property listed in subsection (3) is a single family residence, the property must be considered as Crown property when calculating a grant under this section.

(5) The Crown may pay a grant under this section in respect of property referred to in subsection (3)(g) if in the Crown's opinion it is appropriate to do so.

1994 cM-26.1 s366;1996 c30 s31

Property that is partly exempt and partly taxable

367 A property may contain one or more parts that are exempt from taxation under this Division, but the taxes that are imposed against the taxable part of the property under this Division are recoverable against the entire property.

1994 cM-26.1 s367

Changes in taxable status of property

368(1) An exempt property or part of an exempt property becomes taxable if

(a) the use of the property changes to one that does not qualify for the exemption, or

(b) the occupant of the property changes to one who does not qualify for the exemption.

(2) A taxable property or part of a taxable property becomes exempt if

(a) the use of the property changes to one that qualifies for the exemption, or

(b) the occupant of the property changes to one who qualifies for the exemption.

(3) If the taxable status of property changes, a tax imposed in respect of it must be prorated so that the tax is payable only for the part of the year in which the property, or part of it, is not exempt.

(4) When a designated manufactured home is moved out of a municipality,

(a) it becomes exempt from taxation by that municipality when it is moved, and

(b) it becomes taxable by another municipality when it is located in that other municipality.

1994 cM-26.1 s368;1996 c30 s32;1998 c24 s31

Supplementary property tax bylaw

369(1) If in any year a council passes a bylaw authorizing supplementary assessments to be prepared in respect of property, the council must, in the same year, pass a bylaw authorizing it to impose a supplementary tax in respect of that property.

(2) A council that passes a bylaw referred to in subsection (1) must use the tax rates set by its property tax bylaw as the supplementary tax rates to be imposed.

(2.01) A council may pass a bylaw authorizing it to impose a supplementary tax for designated industrial property only if it passes a bylaw authorizing it to impose a supplementary tax in respect of all other property in the municipality.

(2.1) Despite subsection (2), the tax rates required to raise the revenue to pay requisitions referred to in section 175 of the *Education Act* must not be applied as supplementary tax rates.

(3) The municipality must prepare a supplementary property tax roll, which may be a continuation of the supplementary property assessment roll prepared under Part 9 or may be separate from that roll.

(4) A supplementary property tax roll must show

(a) the same information that is required to be shown on the property tax roll, and

(b) the date for determining the tax that may be imposed under the supplementary property tax bylaw.

(5) Sections 327(4), 328, 330 and 331 apply in respect of a supplementary property tax roll.

(6) The municipality must

(a) prepare supplementary property tax notices for all taxable property shown on the supplementary property tax roll of the municipality, and

(b) send the supplementary property tax notices to the persons liable to pay the taxes.

(7) Sections 333(4), 334, 335, 336, 337 and 338 apply in respect of supplementary property tax notices.

RSA 2000 cM-26 s369;2012 cE-0.3 s279;2016 c24 s60

Continuous tax bylaws — tax

369.1 Bylaws enacted under section 369(1), 371 or 379 remain in force after the year in which they are enacted and apply in respect of subsequent years until they are repealed.

2019 c22 s10(12)

Regulations

370 The Minister may make regulations

(a) prescribing the extent to which residences and farm buildings are exempt from taxation under this Division;

(b) respecting the calculation of a tax rate to be imposed on linear property;

(b.1) respecting the setting of tax rates referred to in section 354(3.1);

(c) describing other property that is exempt from taxation pursuant to section 362(1)(n), and respecting the qualifications and conditions required for the purposes of section 362(1)(n);

(c.1) respecting tax rolls and tax notices including, without limitation, regulations

(i) respecting the information to be shown on a tax roll and a tax notice;

(ii) providing for the method of determining the person liable to pay a property or other tax imposed under this Part;

(iii) respecting the sending of tax notices;

(c.2) respecting designated industrial property assessment requisitions and designated industrial property requisition tax bylaws, including, without limitation, regulations respecting the application of any provision of this Act, with or without modification, to a designated industrial property assessment requisition or a designated industrial property requisition tax bylaw, or both;

(c.3) respecting tax exemptions and deferrals under section 364.1;

(d) specifying licences for the purposes of section 365(2);

(e) defining a community association for the purposes of this Act;

(f) respecting the circumstances in which property is to be considered to be used in connection with a purpose, activity or other thing for the purposes of one or more provisions of this Part;

(g) respecting the circumstances in which property is to be considered to be held by a person or entity for the purposes of one or more provisions of this Part.

RSA 2000 cM-26 s370;2005 c14 s13;
2016 c24 s61;2017 c13 s1(38)

Division 3
Business Tax

Business tax bylaw

371(1) Each council may pass a business tax bylaw.

(2) A business tax bylaw or any amendment to it applies to the year in which it is passed, only if it is passed before May 1 of that year.

1994 cM-26.1 s371

Taxable business

372(1) The business tax bylaw authorizes the council to impose a tax in respect of all businesses operating in the municipality except businesses that are exempt in accordance with that bylaw.

Quorum

458(1) Where a panel of a local assessment review board consists of 3 members, a quorum is 2 members.

(2) Where a panel of a composite assessment review board consists of 3 members, a quorum is 2 members, one of whom must be the provincial member.

2016 c24 s62

Decision

459 A decision of a panel of an assessment review board is the decision of the assessment review board.

2016 c24 s62

Complaints

460(1) A person wishing to make a complaint about any assessment or tax must do so in accordance with this section.

(2) A complaint must be in the form prescribed in the regulations and must be accompanied with the fee set by the council under section 481(1), if any.

(3) A complaint may be made only by an assessed person or a taxpayer.

(4) A complaint may relate to any assessed property or business.

(5) A complaint may be about any of the following matters, as shown on an assessment or tax notice:

(a) the description of a property or business;

(b) the name and mailing address of an assessed person or taxpayer;

(c) an assessment;

(d) an assessment class;

(e) an assessment sub-class;

(f) the type of property;

(g) the type of improvement;

(h) school support;

(i) whether the property is assessable;

Province of Alberta

MUNICIPAL GOVERNMENT ACT

COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION

Alberta Regulation 281/1998

With amendments up to and including Alberta Regulation 152/2023

Current as of January 1, 2024

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

Gaming and liquor licences

8(1) For the purposes of section 365(2) of the Act, property described in section 362(1)(n) of the Act and Part 3 of this Regulation in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence is issued under the *Gaming, Liquor and Cannabis Regulation* (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this Regulation in respect of the property are met.

(2) Despite subsection (1), property in respect of which a casino facility licence is issued is not exempt from taxation.

AR 281/1998 s8;56/2019;295/2020

Part 2
Qualifications for Exemptions Under Section 362(1)(n)(ii) to (v)

Exemption under section 362(1)(n)(ii) of the Act

9(1) The following property is not exempt from taxation under section 362(1)(n)(ii) of the Act:

(a) property to the extent that it is used in the operation of a professional sports franchise;

(b) property that is used solely for community games, sports, athletics or recreation if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older.

(2) Property is not exempt from taxation under section 362(1)(n)(ii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).

(3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

Exemption under section 362(1)(n)(iii) of the Act

10(1) Property referred to in section 362(1)(n)(iii) of the Act is not exempt from taxation unless

(a) the charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the municipality in which the property is located, and

(3) For the purposes of subsection (2), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

AR 281/98 s12;283/2003

Part 3
Other Property Exempt Under Section 362(1)(n)

Definitions

13 In this Part,

(a) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;

(b) "chamber of commerce" means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;

(c) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the racial, cultural, ethnic, national or linguistic origins or interests of its members;

(d) "linguistic organization" means an organization formed for the purpose of promoting the use of English or French in Alberta;

(e) "museum" means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;

(e.1) "residents association" means a non-profit organization that requires membership for residential property owners in a specific development area, that secures its membership fees by a caveat or encumbrance on each residential property title and that is established for the purpose of

(i) managing and maintaining the common property, facilities and amenities of the development area for the benefit of the residents of the development area,

(ii) enhancing the quality of life for residents of the development area or enhancing the programs, public

facilities or services provided to the residents of the development area, or

(iii) providing non-profit sporting, educational, social, recreational or other activities to the residents of the development area;

(f) "retail commercial area" means property used to sell food, beverages, merchandise or services;

(g) "sheltered workshop" means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;

(h) "thrift shop" means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

AR 281/98 s13;283/2003;204/2011

Exemption for other property

14 This Part describes property that is exempt from taxation under section 362(1)(n) of the Act that is not exempt under section 362(1)(n)(i) to (v) of the Act.

Property of residents association

14.1(1) Property that is owned and held by and used in connection with a residents association is exempt from taxation.

(2) Despite subsection (1), the following property owned and held by and used in connection with a residents association is not exempt from taxation under section 362(1)(n) of the Act:

(a) property to the extent that it is used in the operation of a professional sports franchise;

(b) property if, for more than 40% of the time that the property is in use, the majority of those participating in the activities held on the property are 18 years of age or older;

(c) property if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7 as modified by subsection (3).

Province of Alberta

MUNICIPAL GOVERNMENT ACT

MATTERS RELATING TO ASSESSMENT AND TAXATION REGULATION, 2018

Alberta Regulation 203/2017

With amendments up to and including Alberta Regulation 93/2024

Current as of January 1, 2025

Office Consolidation

Alberta King's Printer
Suite 700, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952

E-mail: kings-printer@gov.ab.ca
Shop on-line at kings-printer.alberta.ca

Definitions

1 In this Regulation,

(a) "Act" means the *Municipal Government Act*;

(b) "agricultural use value" means the value of a parcel of land based exclusively on its use for farming operations;

(c) "assessment level" means, for the property assessment class, the overall ratio of assessments to indicators of market value;

(d) "assessment ratio" means the ratio of the assessment to an indicator of market value for a property;

(e) "assessment year" means the year prior to the taxation year;

(f) "coefficient of dispersion" means the average percentage deviation of the assessment ratios from the median assessment ratio for a group of properties;

(g) "mass appraisal" means the process of preparing assessments for a group of properties using standard methods and common data and allowing for statistical testing;

(h) "median assessment ratio" means the middle assessment ratio when the assessment ratios for a group of properties are arranged in order of magnitude;

(i) "Minister's Guidelines" means the Minister's Guidelines established by the Minister, including the following:

(i) Alberta Assessment Quality Minister's Guidelines;

(ii) Alberta Farm Land Assessment Minister's Guidelines;

(iii) Alberta Linear Property Assessment Minister's Guidelines;

(iv) Alberta Machinery and Equipment Assessment Minister's Guidelines;

(v) Alberta Railway Property Assessment Minister's Guidelines;

(vi) any of the above guidelines that are referred to in

Valuation date

6 Any assessment prepared in accordance with the Act must be an estimate of the value of a property on July 1 of the assessment year.

Valuation standard for a parcel of land

7(1) The valuation standard for a parcel of land is

(a) market value, or

(b) if the parcel is used for farming operations, agricultural use value.

(2) In preparing an assessment for a parcel of land based on agricultural use value, the assessor must follow the procedures set out in the Alberta Farm Land Assessment Minister's Guidelines.

(3) Despite subsection (1)(b), the valuation standard for the following property is market value:

(a) a parcel of land containing less than one acre;

(b) a parcel of land containing at least one acre but not more than 3 acres that is used but not necessarily occupied for residential purposes or can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(c) an area of 3 acres located within a larger parcel of land where any part of the larger parcel is used but not necessarily occupied for residential purposes;

(d) an area of 3 acres that

(i) is located within a parcel of land, and

(ii) can be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(e) any area that

(i) is located within a parcel of land,

(ii) is used for commercial or industrial purposes, and

(iii) cannot be serviced by using water and sewer distribution lines located in land that is adjacent to the parcel;

(f) an area of 3 acres or more that

(i) is located within a parcel of land,

Matters Relating to Assessment Sub-Classes Regulation, Alta Reg 202/2017

(no amdt)

ALBERTA REGULATION 202/2017

Municipal Government Act

MATTERS RELATING TO ASSESSMENT SUB-CLASSES REGULATION

Definition

1 In this Regulation, "Act" means the *Municipal Government Act*.

Prescribed sub-classes

2(1) For the purposes of section 297(2.1) of the Act, the following sub-classes are prescribed for property in class 2:

(a) vacant non-residential property;

(b) small business property;

(c) other non-residential property.

(2) The subclasses referred to in subsection (1) can be applied to both the Urban and Rural Service Areas for Lac La Biche County and the Regional Municipality of Wood Buffalo as if the service areas

were separate entities.

(3) For the purposes of subsection (1)(b), "small business property" means property in a municipality, other than designated industrial property, that is owned or leased by a business

(a) operating under a business licence or that is otherwise identified in a municipal bylaw, and

(b) that has fewer than

(i) 50 full-time employees across Canada, or

(ii) a lesser number of employees as set out in a municipal bylaw,

as at December 31 or an alternative date established in a municipal bylaw.

(4) For the purposes of subsection (3), a property that is leased by a business is not a small business property if the business has subleased the property to someone else.

(5) For the purposes of subsection (3), a municipality may, by bylaw, prescribe procedures to allow for the effective administration of the small business property sub-class tax rate, including, without limitations, a method for determining and counting full-time employees, and the frequency of that count.

Tax rates

3(1) For the purposes of section 354(3.1) of the Act, the tax rate set for section 297(1)(d) of the Act to raise the revenue required under section 353(2)(a) of the Act must be equal to the tax rate set for property described in section 2(1)(c) to raise revenue for that purpose.

(2) The tax rate set for property referred to in section 2(1)(b)

(a) must not be less than 75% of the tax rate for property referred to in section 2(1)(c), and

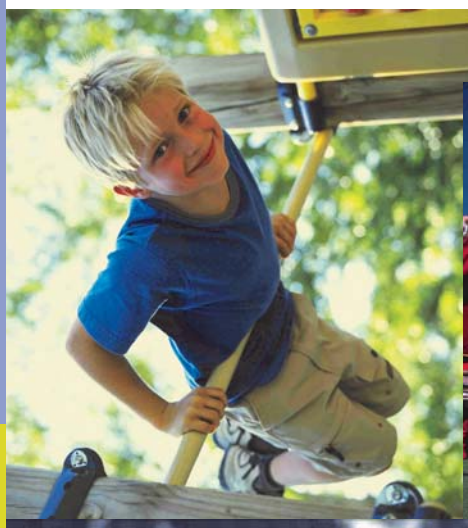
(b) must not be greater than the tax rate for property referred to in section 2(1)(c).

Coming into force

4 This Regulation comes into force on January 1, 2018.

Property Tax Exemptions in Alberta

a guide



2005 Alberta Centennial

Alberta Municipal Affairs

1.0 Property Tax Exemption

A key principle of the Alberta property assessment and taxation system is that all property[1] is subject to local assessment and taxation. However, "every nation provides exemptions from property tax. Typical exemptions include property owned or used by organizations providing services related to government, education, charity, religion, culture, and historic preservation."[2]

Exemptions provided to qualifying properties tend to reflect social values that are based on collective priorities. The usual basis for determining tax exemption is the facility's accessibility and the public benefit that arises from its use. Government, churches, hospitals, schools and other properties described as eligible for property tax exemption in section 362 are examples of this.

Over time, this understanding of "public benefit" has been embraced at the community level, giving rise to a myriad of local property tax exemption decisions that were specific to a property, an area, an organization or a combination of these three. Varying assumptions about "public benefit" contributed to a lack of consistency in decisions to tax or exempt property across Alberta. Sometimes an organization operating in two different municipalities is exempt in one but not the other.

The government responded to this lack of consistency by forming the *Non-profit Tax Exemption MLA Review Committee* in 1997. An important outcome of its review was to establish a set of principles and a process that could be applied to situations requiring consideration for property tax exemption that involved 'non-profit' organizations. These principles were:

- advancement of 'public benefit,' in terms of charitable and benevolent purposes, community games, sports, athletics, recreation, and educational purposes;
- recognition of the 'volunteer contribution and fund raising component' that most often characterizes 'not for profit' status organizations;
- advancement of youth programs and community care for the disadvantaged; and
- appropriate access to non-profit facilities and programs.

These principles and the ability of the local jurisdiction to make its own decisions about activities taking place within its community are acknowledged in the decision-making process outlined in the Regulation.

[1] Section 284(1)(r) of the Municipal Government Act.

[2] International Association of Assessment Officers, Assessment Administration, (Chicago: International Association of Assessment Offices, 2003).

1.0 Property Tax Exemption

HOSTELS

		Legislative Reference
Usual Status	Exempt, in whole or in part, as provided for in the Act.	s.363(1)(b) MGA
Basic Requirements	Property must be owned or leased by and used in connection with: 1. the Canadian Hostelling Association - Northern Alberta District; 2. the Southern Alberta Hostelling Association; 3. Hostelling International - Canada - Northern Alberta; or 4. Hostelling International - Canada - Southern Alberta, and not operated for profit or gain.	s.363(1)(b) MGA
Additional Considerations	The municipality has the option of passing a bylaw, effective one year after it is passed and after notice is given to the affected organization, to make any hostel taxable to any extent it wishes.	s.363(2)(3)(4)(5) MGA

LIBRARIES

		Legislative Reference
Usual Status	Exempt, in whole or in part, when used in connection with library purposes and owned or leased by a library board under the *Libraries Act*.	s.362(1)(j) MGA

MUNICIPAL PROPERTIES

		Legislative Reference
Usual Status	Exempt, in whole or in part, when owned or leased by a municipality. Taxable, in whole or in part, when used for purposes prescribed under the Act.	s.362(1)(b) MGA s.362(1)(b)(i)(ii)(iii)(iv)(v) MGA

MUNICIPAL SEED CLEANING PLANTS AND LAND

		Legislative Reference
Usual Status	Exempt in part when constructed under an agreement authorized by the *Agricultural Service Board Act*.	s.362(1)(p) MGA
Additional Considerations	Land and improvements are taxable, up to 1/3 of the assessed value.	s.362(1)(p) MGA

STATUTES: RETROACTIVE RETROSPECTIVE REFLECTIONS

ELMER A. DRIEDGER*

Ottawa

One of the most difficult problems in the process of statutory construction is the application of the presumption against the retrospective operation of statutes.

Many years ago, as a legal officer in the Department of Justice, I had to deal with the problem whether a particular statute applied in respect of an event that took place before the statute was enacted. This raised the question whether the presumption against the retrospective operation of statutes applied. To answer that, it was necessary to ask the fundamental question—What is a retrospective operation? Naturally, I went to the text-books to find out. I was astonished and disappointed that I found nothing to answer this question. All I could find in the text-books and articles was a statement of the presumption and references to countless decisions where the presumption was applied or not applied. I then began to read cases. But no answer to my question emerged. I found mostly confusion. Nowhere could I find a clear definition of a retrospective statute, or any clear statement of principle as to when the presumption applied or did not apply. Since my question remained unanswered, I undertook a study of the decisions to see if I could not formulate a workable answer. I came to some conclusions, on the basis of which I disposed of the case before me. Subsequently I wrote a paper entitled "The Retrospective Operation of Statutes"[1] in which I set forth my conclusions.

The first conclusion I came to was that there was confusion between two presumptions, namely, the presumption against interference with vested rights, and the retrospective presumption. I could not see how a statute that interferes with or destroys a previously acquired right could be said to be retrospective. The decision in *Rex* v. *Levine*[2] illustrates this distinction.

In that case the accused was in possession of liquor on premises that were used partly as a store and partly as a dwelling house. At the time of purchase the premises were included in the definition of

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[1] Legal essays in Honour of Arthur Moxon. Edited by J. A. Corry (1953), p. 1.

[2] (1926), 46 C.C.C. 342.

''residence'' in the Liquor Control Act, and accordingly the accused was lawfully in possession at the time of purchase. The statute was then amended so as to exclude from the definition of ''residence'' premises of the class described. The accused was convicted and the conviction was affirmed by the Manitoba Court of Appeal. Prendergast J.A., who delivered the majority judgment, held[3] that the effect of the amendment in its application to the case under consideration was in no way retrospective. He went on to say:[4]

> Now, none of the ingredients of the offence charged are ''in respect to transactions or considerations already past''. The existence or presence of the liquor on the premises, only refers to its existence or presence there on the 27th. The appellant's possession of it, is merely her possession of it on that day. The condition or lay-out of the premises which made them ''a place other than the private dwelling house in which she resides'' (being the inclusion of a store), is also the condition of the premises on that same day. So that all the things and matters that are either formally set forth or implied in the information, happened or existed on the 27th, quite independently of anything that happened or existed before. . . .
>
> Of course, the appellant's status was altered by the amendment, and certain rights which she previously had, came thereby to an end. But that is the effect and in fact the function, of most, if not all, public enactments of a regulating character. I cannot conceive that a statute prohibiting, for instance, the keeping of more than 10 barrels of gasoline in factories where 20 were previously allowed, or (which is more to the point) the keeping of certain inflammable material otherwise than in buildings with a metal roof, could be deemed retrospective, although interfering with existing rights.

That decision cited *West* v. *Gwynne*.[5] There the question was whether section 8 of the Conveyancing Act, 1892, was of general application, or whether its operation was confined to leases made after the commencement of the Act. It provided that ''in all leases'' containing a covenant against assigning or underletting without licence or consent, the covenant should be deemed to be subject to a proviso to the effect that no fine was payable for such licence or consent. It was said in argument that a statute is presumed not to have a retrospective operation unless the contrary appears by express language or by necessary implication. Cozens-Hardy M.R. said[6] he assented to that general proposition, but he also said he failed to appreciate its application to the present case.

Buckley L.J. was of the opinion that ''the word 'retrospective' is inappropriate, and the question is not whether the section is retrospective. Retrospective operation is one matter. Interference with existing rights is another''.[7]

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[3] *Ibid.*, at p. 348.

[4] *Ibid.*, at pp. 348-349.

[5] (1911), L.R. 2 Ch. D.1.

[6] *Ibid.*, at p. 11.

[7] *Ibid.*, at pp. 11-12.

In *Acme Village School District* v. *Steele-Smith*[8], Lamont J.[9] recognized the idependence of the two presumptions; the first "that statutes are not to be construed as having retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary or distinct implication", and the second, that statutes "should not be given a construction that would impair existing rights, unless that effect cannot be avoided without doing violence to the language of the enactment".

Sedgwick[10] defined a retrospective statute as one that takes away or impairs any vested right acquired under existing laws, or creates a new obligation, or imposes a new duty, or attaches a new disability in respect to transactions or considerations already passed.

It seemed to me that this statement, taken as a whole, was incorrect; a statute surely cannot be called retrospective merely because it takes away or impairs a right acquired under existing laws. Only the second branch of this statement could, in my opinion, be regarded as a definition of a retrospective statute.

In searching judicial decisions for an answer to my question, I began with *The Queen* v. *The Inhabitants of St. Mary, Whitechapel.*[11] The statute there provided that "no woman residing in any parish with her husband at the time of his death shall be removed, nor shall any warrant be granted for her removal, from such parish, for twelve calendar months next after his death, if she so long continue a widow". Before the enactment of the statute the woman had become a widow and an order of removal had been made. Lord Denman C.J. said:[12]

> It was said that the operation of the statute was confined to persons who had become widows after the Act passed, and that the presumption against a retrospective statute being intended supported this construction; but we have before shewn that the statute is in its direct operation prospective, as it relates to future removal only, and that it is not properly called a retrospective statute because a part of the requisites for its action is drawn from time antecedent to its passing. The clause is general, to prevent all removals of the widows described therein after the passing of the Act; the description of the widow does not at all refer to the time when she became widow; and we are therefore of opinion that the pauper was irremoveable at the time she was removed.

Lord Denman's observations struck me as being eminently sound. A widow is a widow, no matter when she became one, and the application of the statute to a widow who became one before the

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[8] [1933] S.C.R. 47.

[9] *Ibid.*, at pp. 50-51.

[10] The Construction of Statutory and Constitutional Law (2nd ed., 1874), p. 160.

[11] (1848), 116 E.R. 811.

[12] *Ibid.*, at p. 812.

statute is no more a retrospective application than is the application of a statute to persons who were born before the statute.

This decision suggested to me two distinct kinds of "requisites" for the application of a statute "drawn from time antecedent to its passing", namely, (1) a characteristic (status) and (2) an event; and I concluded that a statute cannot be said to be retrospective if it is brought into operation by a characteristic or status that arose before it was enacted; but that it is retrospective if it is brought into operation by a prior event described in the statute. Clear support for this conclusion is to be found in *West* v. *Gwynne*.[13] The fact-situation there bringing about the operation of the statute was a characteristic only, and not an event. To the same effect was the decision in *Acme Village School District* v. *Steele-Smith*[14] where a statute was held to apply to an agreement made before the statute was enacted.[15] But in *Maxwell* v. *Callbec*[16] the fact-situation on which the statute operated was "where by the fault of two or more persons damage or loss is caused"—an event, and it was held that the statute applied only to damage or loss occurring after the enactment of the statute.

I then formulated an answer to my fundamental question as follows:[17]

> It is perhaps dangerous to generalize, but the position appears to be that whenever the operation of a statute depends upon the doing of something or the happening of some event, the statute will not operate in respect of something done or in respect of some event that took place before the statute was passed; but if the operation of the statute depends merely upon the existence of a certain state of affairs, the *being* rather than the *becoming*, the statute will operate with respect to a status that arose before the passing of the statute, if it exists at the time the statute is passed. Having decided that a statute is not by reason of the retrospective rule precluded from operating in particular circumstances, there is the further, and unrelated, question whether the statute is precluded from so operating for the reason that it impairs existing rights.

In formulating the foregoing conclusions I was, of course, concentrating on the meaning of retrospective. It is obvious that not all retrospective statutes attract the presumption; only those, to use the words of Sedgwick, that "create a new obligation, or impose a new duty or attach a new disability in respect to transactions or considerations already passed". In brief, the presumption applies only to prejudicial statutes; not beneficial ones. Although this must necessarily be implied in what I said, my failure to say so expressly

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[13] *Supra*, footnote 5.

[14] *Supra*, footnote 8.

[15] See also *Chapin* v. *Matthews* (1915), 24 D.L.R. 457, and *Nadeau* v. *Cook*, [1948] 2 D.L.R. 783.

[16] [1939] S.C.R. 440.

[17] *Op. cit.*, footnote 1, p. 15.

in the immediate context of the above quoted paragraph has caused some confusion in the minds of my readers. Also, at that time I did not see the problems that can arise in relating new duties, obligations or disabilities to prior transactions. Referring to Sedgwick's definition, when can it be said that an obligation, duty or disability is *in respect to* a prior transaction?

Because of the frailty of language it is often difficult to say whether the words in a statute setting forth a fact-situation are intended to describe an event or a characteristic. For example, suppose a statute applied to a "person who was employed on January 1st, 1970". It is impossible to tell from those words alone whether the person described is one who took employment that day (event), or one who on that day was an employee (characteristic).

Thus, in *The Queen* v. *Vine*[18] the statute provided that "every person convicted of a felony" should be disqualified from selling spirits by retail; the majority held this to mean a "convicted person" and therefore applicable to persons convicted before the statute was enacted, but Lush J., dissenting, said[19] the phrase meant "every person who shall hereafter be convicted". According to the majority there was no occasion to consider the presumption since its application to persons convicted prior to the statute was not a retrospective application. In Lush's view, however, it was, and he applied the presumption.

The ideas I expressed in my 1950 essay I carried forward into my text on the *Construction of Statutes*[20]. I thought at the time that I had found the complete answer to my fundamental question. However, after I began the teaching of this subject, class-room experience taught me otherwise. While I still stand by what I wrote in 1950 and later in 1974, I began to realize I did not have the complete answer. I also discovered that the expression of my thoughts was not as clear as it might be, since my students had difficulty in following me, and some were confused by my explanations. Hence, I had another go at it in the 1976 *Supplement* to my text. There I deal more clearly with the difference between a retroactive statute and a retrospective one.

A retroactive statute is one that operates as of a time prior to its enactment. A retrospective statute is one that operates for the future only. It is prospective, but it imposes new results in respect of a past event. A retroactive statute *operates backwards*. A retrospective statute *operates forwards*, but it looks backwards in that it attaches new consequences *for the future* to an event that took place before

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[18] (1875), L.R. 10 Q.B. 195.

[19] *Ibid.*, at p. 201.

[20] (1974)

the statute was enacted. A retroactive statute changes the law from what it was; a retrospective statute changes the law from what it otherwise would be with respect to a prior event.

In *West* v. *Gwynne*[21] the true reason for holding that the statute there was not retrospective is, I suggest, that there is no reference in the statute to a past event or transaction. The only reference is to leases of a certain kind. Yet Buckley L.J. rejected the presumption because the statute was not operative as of a past time. His definition of retrospectivity was in reality a definition of retroactivity. He said:[22] "If an Act provides that as at a past date the law shall be taken to have been that which it was not, that Act I understand to be retrospective." And in *Phillips* v. *Eyre*[23], an Act of Indemnity, which did operate as of a past time, was called retrospective.

I had always known that there was a difference, even though in the dictionaries the definition of each word includes the other, and in the decisions the two words are often equated and used interchangeably. I did not previously attach any particular significance to the difference, but I discovered that unless a clear distinction is made between the two words, there is bound to be confusion. Thus, a statute could be retroactive but not retrospective, retrospective but not retroactive, or both retroactive and retrospective; and both retroactive statutes and retrospective statutes could be, and usually are, prospective also. The presumption applies to both, but the test of retroactivity is different from that of retrospectivity. For retroactivity the question is: Is there anything in the statute to indicate that it must be deemed to be the law as of a time prior to its enactment? For retrospectivity the question is: Is there anything in the statute to indicate that the consequences of a prior event are changed, not for time before its enactment, but henceforth from the time of enactment, or from the time of its commencement if that should be later.

In my 1974 *Supplement* I took one further step in trying to clarify my own thinking, and what I have said earlier, namely, that only if an enacted law attaches an obligation or disability or imposes a duty *as a new consequence* of a prior event, can it be said to be retrospective. An example I gave[24] was the statute considered in *Nadeau* v. *Cook*,[25] which provided that:

> Where any person recovers in any court in the province a judgment for an amount exceeding one hundred dollars, exclusive of costs, in an action for

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[21] *Supra*, footnote 5.

[22] *Ibid.*, at p. 12.

[23] (1870), L.R. 6 Q.B. 1.

[24] P. 17.

[25] *Supra*, footnote 15, at p. 784.

> damages resulting from bodily injury to, or the death of, any person occasioned by, or arising out of, the operation or use of a motor vehicle by the judgment debtor, upon the determination of all proceedings including appeals . . . such judgment creditor may . . . apply by way of originating notice to a judge of the Supreme Court of Alberta for an order directing payment of the judgment out of the [Unsatisfied Judgment] fund. . . .

Judgment for damages was recovered after the statute was enacted, but the accident giving rise to the action occurred before. The court held that the application of the statute to the judgment was not a retrospective one. Ford J. said that the words "damages resulting from . . . the operation or use of a motor vehicle" defined the cause of action and did not have a limiting effect. Here, the enacted law was a consequence of the judgment and not of the accident; the fact-situation on which the enactment operated was the recovery of the judgment.

Another example I gave was *Ward* v. *Manitoba Public Ins. Corp.*,[26] where the statute under consideration, together with the regulations, provided for increased premium assessments based on demerit points calculated according to the number and nature of offences committed by the insured. The court held that the inclusion of offences committed before the statute was enacted was not a retrospective operation. Guy J.A. said[27] that "we are satisfied that the intent of the legislators to deal with records implies an intent to deal with antecedent basic facts and apply them to prospective charges for insurance premiums". Here, the increased charges were the result of the record of the accused, and not the commission of the offence.

Also *In re a Solicitor's Clerk*,[28] where the statute provided that "Where a person who is or was a clerk to a solicitor . . . has been convicted of larceny . . . or any other criminal offence in respect of any money or property belonging to or held by the solicitor . . . an application may be made . . . that an order be made directing that . . . no solicitor shall . . . take or retain the said person into or in his employment." It was held that the making of an order in respect of a clerk who had been convicted prior to the enactment of the statute was not a retrospective operation. Goddard C.J. said:[29]

> But in my opinion this Act is not in truth retrospective. It enables an order to be made disqualifying a person from acting as a solicitor's clerk in the future and what happened in the past is the cause or reason for the making of the order, but the order has no retrospective effect. . . . This Act simply enables a disqualification to be imposed for the future which is no way affects anything done by the appellant in the past.

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[26] [1975] 2 W.W.R. 53.

[27] *Ibid.*, at p. 55.

[28] [1957] 1 W.L.R. 1219.

[29] *Ibid.*, at p. 1222.

The fact-situation here was the characteristic of the clerk as a convicted person. Similarly, in *The Queen* v. *Vine*,[30] where the statute imposed a disability on "every person convicted of a felony", it was held that the statute applied to persons convicted before the statute was enacted; here, the statute attached a disability to a characteristic and not to the felonious act or the conviction.

Also, in *Chapin* v. *Matthews*[31] where the statute provided that no covenant in any agreement should be binding on the purchaser of farm machinery if a court or judge should decide it to be unreasonable, the court applied the statute to agreements made before the statute was enacted; here again, the description was by characteristic. This decision may be contrasted with *J. I. Case Threshing Machine Co.* v. *Whitney*[32] where a similar statute was considered. In it there was a provision that "in the case of a vendor repossessing any . . . implement . . . the implement shall . . . be appraised . . . by two arbitrators", and it was held that the provision did not apply in respect of an implement that was repossessed before the enactment came into force and sold thereafter without appraisal; here the fact-situation was an event, namely, the act of repossessing. The distinction between characteristic and event was recognized by Stuart J. when he said that[33] "It does not follow that a similar result would be reached with respect to the other sections of the Act . . . where the expression 'shall be sold' is found"; that would be an event.

In conducting my lectures in the following year, I realized that I still did not have the complete answer. I now realized that there are three kinds of statutes that can properly be said to be retrospective, but only one that attracts the presumption. First, there are the statutes that attach benevolent consequences to a prior event; they do not attract the presumption. Secondly there are those that attach prejudicial consequences to a prior event; they attract the presumption. Thirdly there are those that impose a penalty on a person who is described by reference to a prior event, but the penalty is not a consequence of the event; these do not attract the presumption.

It is usually easy enough to identify a retroactive statute. It will say that it came into force on a day prior to its enactment, or that it operates on past transactions. What is difficult is first, to identify a retrospective statute, and secondly, what is even more difficult, to distinguish between those retrospective statutes that attract the

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[30] *Supra*, footnote 18.

[31] *Supra*, footnote 15.

[32] [1922] 3 W.W.R. 643.

[33] *Ibid.*, at pp. 470-471.

presumption and those that do not. The latter difficulty may be illustrated by two examples:

(1) Every person convicted of impaired driving is disqualified from holding a licence

This provision imposes a new disability, and the courts would in all likelihood hold that the statute would be given retrospective effect if it were applied in respect of prior convictions.[34]

(2) Every person convicted of impaired driving shall pay an additional insurance premium of $100.00 to the Government Insurance Commission

Here also a further penalty is imposed in respect of a conviction, but, following *The Queen* v. *Vine*,[35] *In re a Solicitor's Clerk*[36] and *Ward* v. *Manitoba Public Ins. Corp.*[37] the courts in all likelihood would hold that its application in respect of prior convictions was not a retrospective operation.

Here we have, I believe, the most difficult problem with the retrospective presumption. The first two examples look alike, but, following the cases cited, the results are different. How can we distinguish the two kinds of situations? What would the courts say about this:

A person who has been convicted of an indictable offence is ineligible to hold public office.

The extreme cases are easy. Thus, if a statute provided that "every one who has attained the age of eighteen years is qualified" to vote at an election, no one would say that the statute applies only to persons who attained the age of eighteen years after its enactment. This is a beneficial provision. But if a statute should provide that the lands of "every one who has been convicted of the offence of treason" are forfeited to the Crown, no one would apply that statute to convictions before its enactment. This is a prejudicial provision.

But the situations in between these two extremes are the difficult ones.

The principle I have postulated is that the presumption applies if the statute would attach a new duty, penalty or disability—that it to say, a prejudicial consequence—to a prior event. But when is a prejudicial law a consequence of an event, and when is it not? An answer may be found in the following decisions.

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[34] See *In re Athumley*, [1898] 2 Q.B. 547; *Ward* v. *British Oak Insurance*, [1931] 2 K.B. 637; *In re Pulborough*, [1894] 1 Q.B. 725.

[35] *Supra*, footnote 18.

[36] *Supra*, footnote 28.

[37] *Supra*, footnote 26.

In *The Queen* v. *Vine*,[38] the statute considered there provided that:

> Every person convicted of a felony shall forever be disqualified from selling spirits by retail, and no licence to sell spirits by retail shall be granted to any person who shall have been so convicted. . . .

The question, as stated by Cockburn C.J., was whether a person who had been convicted of felony before the Act was passed became disqualified on the passing of the Act. There was no provision in the Act that could be construed as a rebuttal of the retrospective presumption.

Cockburn C.J. held that the Act did apply. He said[39] that "if one could see some reason for thinking that the intention of this enactment was merely to aggravate the punishment for felony" he could feel the force of the argument in favour of applying the presumption. "But", he said, "here the object of the enactment is not to punish offenders, but to protect the public against public houses in which spirits are retailed being kept by persons of doubtful character".

He obviously construed the words "every person convicted of a felony" as referring to a status or characteristic only, and not to a past transaction. He also said[40] "the words are in effect equivalent to 'every convicted felon' ". Miller, and Archibald J.J. concurred, but Lush J. disagreed. He expressed the view[41] that a person who had previously been convicted would forfeit his licence, and this was, therefore a highly penal enactment.

The majority regarded the new disability as protection to the public, and not a new punishment, Archibald J. said[42] "it is an enactment with regard to public and social order, and the infliction of the penalty is merely collateral". In his view the statute was retrospective, since he considered that a new disability was attached to past events. But on Cockburn's view, which, it is submitted, is the correct view, the statute was prospective only, since the fact-situation described in the statute was a characteristic that arose in the past and not a past event.

In *In re Pulborough*[43] the Court of Appeal considered a provision of the Bankruptcy Act, 1883, which provided that "where a debtor is adjudged bankrupt" he should be subject to certain

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[38] *Supra*, footnote 18.

[39] *Ibid.*, at p. 201.

[40] *Ibid.*, at p. 202.

[41] *Ibid.*, at p. 201.

[42] *Ibid.*, at p. 202.

[43] *Supra*, footnote 34.

disqualifications, including being elected to the office of member of a school board. The question was whether the statute applied to a person who had been adjudged bankrupt before its enactment.

The majority held that it did not. Lopes L.J. said:[44]

> It has been contended that the words "is adjudged bankrupt" are to be read, "has been adjudged bankrupt either before or after the passing of this Act".
>
> I cannot so read those words. Independently of other considerations, with which I will presently deal, and regarding them only from a grammatical standpoint, I should read them, "is adjudged bankrupt under this Act". The sentence would then be, where a debtor "is adjudged bankrupt under this Act he shall, subject to the provisions of this Act, be disqualified". This reading seems more consonant with sense than "where a debtor has been adjudged bankrupt under this Act, or any previous Act, he shall, subject to the provisions of this Act, be disqualified". The former reading gives to "is" its ordinary and natural meaning; the latter distorts it. . .
>
> Under s. 32 of the Bankruptcy Act, 1883, the respondent on being adjudged a bankrupt is disqualified from being elected a member of the school board until the adjudication of bankruptcy against him is annulled, or he obtains from the Court his discharge, with a certificate to the effect that his bankruptcy was caused by misfortune, without any misconduct on his part.
>
> A new disability, therefore, is imposed upon him, and disabilities are imposed on other persons which had no existence before the Bankruptcy Act of 1883. Having regard to the scope of the Act, and the rule of construction applicable to statutes, I am confirmed in my view as to the true reading of the words in s. 32 "is adjudged bankrupt".

Davey C.J. stated:[45]

> Now, reading those words alone, and apart from considerations arising out of the subject-matter of the section in which they occur, I should certainly understand them (according to the ordinary use of the English language) to mean, if any man shall or may hereafter be adjudged bankrupt; and unless there be some controlling context in the Act or in the section, I hold that to be the meaning of the words. It has been suggested that the words may be read as meaning "where a man is an adjudicated bankrupt". The answer seems to me to be that those are not the words before us, and that the words we have to construe are grammatically different. I think the words "is adjudged" are the verb, whereas in the paraphrase suggested the word "adjudicated" would be an adjective. The one form of sentence points to an event to happen, whereas the form suggested predicates a certain quality of the subject which may just as well attach to him by a previous adjudication as by a subsequent one.

Lord Esher, however, dissented. He said:[46]

> In my opinion, s. 32 is not penal within the meaning of the proposition, which states that a penal statute must be construed strictly, and in my opinion it is not, in the true sense of the term, retrospective. . . .
>
> I cannot think that the legislature intended these disqualifications as punishments, for by the same section it appears that the disqualifications are to

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[44] *Ibid.*, at pp. 736, 737-738.

[45] *Ibid.*, at p. 740.

[46] *Ibid.*, at pp. 733, 734.

> be removed if the debtor obtains a certificate to the effect that his bankruptcy was caused by misfortune, without any misconduct on his part. To my mind, to say that the legislature intended to punish a debtor of whom that can be said would be to charge the legislature with injustice. The disqualifications are intended solely for the protection of the public, and not by way of punishment. The case of *Reg.* v. *Vine* is a strong authority to shew that under such circumstances that which is enacted is not penal.

West v. *Gwynne* and *R.* v. *Vine* were referred to in *In re a Solicitor's Clerk*.[47] The statute considered there provided that "where a person who is or was a clerk to a solicitor . . . has been convicted of larceny . . . an application may be made . . . that an order be made directing that . . . no solicitor shall . . . take or retain the said person into or in his employment". The solicitor's clerk had been convicted before the statute was enacted, but it was held that the statute applied. Lord Goddard C.J. said:[48]

> It would be retrospective if the Act provided that anything done before the Act came into force or before the order was made should be void or voidable, or if a penalty were inflicted for having acted in this or any other capacity before the Act came into force or before the order was made. This Act simply enables a disqualification to be imposed for the future which in no way affects anything done by the appellant in the past.

The case of *In re a Solicitor's Clerk* was followed by the Manitoba Court of Appeal in *Ward* v. *Manitoba Public Ins. Corp.*[49] Under the statute and regulations there, additional premiums were assessed on the basis of convictions for offences, and it was held that the intent of the statute was to "deal with antecedent basic facts and apply them to prospective charges for insurance premiums".[50]

In the end, resort must be had to the object of the statute. If the intent is to punish or penalize a person for having done what he did, the presumption applies, because a new consequence is attached to a prior event. But if the new punishment or penalty is intended to protect the public, the presumption does not apply.

There can be differences of opinion about the intent of the statute. In the case of *R.* v. *Vine* the majority held that the object of the statute was not to punish offenders but to protect the public; Lush, J. dissenting, said it was a highly penal enactment, and on his view the presumption would apply.

In *In re Pulborough* the majority held the disabilities to be disabilities to be added to those set out in the Bankruptcy Act; Lord Esher, however, did not think that the new disqualifications were

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[47] *Supra*, footnote 28.

[48] *Ibid.*, at pp. 1222-1223.

[49] *Supra*, footnote 26.

[50] *Ibid.*, per Guy J.A., at pp. 55-56.

intended as punishment, but that they were intended solely for the protection of the public.

In *In re a Solicitor's Clerk*, Lord Denman said the statute would be retrospective if anything done prior to the Act should be made void or voidable or if a penalty were inflicted "for having acted in this or any other capacity before the Act came into force".

In *Ward* v. *Manitoba Public Insurance* the statute and regulations were clearly for the protection of the public.

To summarize:

1. A retroactive statute is one that changes the law as of a time prior to its enactment.

2. (1) A retrospective statute is one that attaches new consequences to an event that occurred prior to its enactment.

(2) A statute is not retrospective by reason only that it adversely affects an antecedently acquired right.

(3) A statute is not retrospective unless the description of the prior event is the fact-situation that brings about the operation of the statute.

3. The presumption does not apply unless the consequences attaching to the prior event are prejudicial ones, namely, a new penalty, disability or duty.

4. The presumption does not apply if the new prejudicial consequences are intended as protection for the public rather than as punishment for a prior event.

[1] Governing principle

The Construction of Statutes, 7th Ed.

Ruth Sullivan

The Construction of Statutes, 7th Ed. (Sullivan) > CHAPTER 11 Coherence, Overlap and Conflict Resolution > § 11.01 The Presumption of Coherence

CHAPTER 11 Coherence, Overlap and Conflict Resolution

§ 11.01 The Presumption of Coherence

[1] Governing principle

It is presumed that the provisions of legislation are meant to work together, both logically and teleologically, as parts of a functioning whole. The parts are presumed to fit together logically to form a rational, internally consistent framework; and because the framework has a purpose, the parts are also presumed to work together dynamically, each contributing something toward accomplishing the intended goal.[1]

The presumption of coherence is also expressed as a presumption against internal conflict. It is presumed that the body of legislation enacted by a legislature does not contain contradictions or inconsistencies, that each provision is capable of operating without coming into conflict with any other. As La Forest J. wrote in *Friends of Oldman River Society v. Canada (Minister of Transport)*:

> ... there is a presumption that the legislature did not intend to make or empower the making of contradictory enactments.[2]

In *Willick v. Willick*, Sopinka J. wrote:

> With respect to the application of the contextual approach, ... the objective is to interpret statutory provisions to harmonize the components of legislation inasmuch as is possible, in order to minimize internal inconsistency....[3]

Footnote(s)

1 *R. v. Jarvis*, [2019] S.C.J. No. 10, 2019 SCC 10 at para. 119 (S.C.C.); *Canadian Imperial Bank of Commerce v. Green*, [2015] S.C.J. No. 60, 2015 SCC 60 at para. 186 (S.C.C.); *R. v. L.T.H.*, [2008] S.C.J. No. 50, 2008 SCC 49 at para. 47 (S.C.C.); *Lorencz v. Talukdar*, [2020] S.J. No. 86, 2020 SKCA 28 at para. 54 (Sask. C.A.); *Canada v. Canada North Group Inc.*, 2019 ABCA 314 at paras. 27-28 (Alta. C.A.); *Onyskiw v. CJM Property Management Ltd.*, [2016] O.J. No. 3817, 2016 ONCA 477 at paras. 41-43, 51, 56 (Ont. C.A.).

2 [1992] S.C.J. No. 1, [1992] 1 S.C.R. 3 at 38 (S.C.C.). See also *Thibodeau v. Air Canada*, [2014] S.C.J. No. 67, 2014 SCC 67 at para. 89 (S.C.C.); *Murphy v. Welsh*, [1993] S.C.J. No. 83, [1993] 2 S.C.R. 1069 at 1079 (S.C.C.); *Diamond Estate v. Robbins*, [2006] N.J. No. 3 at paras. 49-50 (N.L.C.A.).

3 [1994] S.C.J. No. 94, [1994] 3 S.C.R. 670 at 689 (S.C.C.). See also *Tracy v. Iran (Information and Security)*, [2017] O.J. No. 3480, 2017 ONCA 549 at para. 34 (Ont. C.A.).

[1] Governing principle

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[1] Application of presumptions to delegated authority

The Construction of Statutes, 7th Ed.

Ruth Sullivan

CHAPTER 25 Temporal Application

§ 25.13 Regulations

[1] Application of presumptions to delegated authority

It is presumed that the legislature does not intend to delegate a power to legislate retroactively or retrospectively or to interfere with vested rights. As Southin J.A. put it in *Casamiro Resource Corp. v. British Columbia (Attorney General)*,[1] such a delegation would be out of keeping with Canadian notions of decent legislative behaviour. In practice, this means two things: (1) regulations and other forms of delegated legislation are presumed to apply prospectively only and to not interfere with vested rights;[2] and (2) delegated legislation that purports to apply retroactively or retrospectively or to interfere with vested rights is invalid unless the legislature has expressly or impliedly authorized it to do so.

Footnote(s)

1 [1991] B.C.J. No. 1097, 80 D.L.R. (4th) 1 at 10 (B.C.C.A.). See also *British Columbia (Attorney General) v. Parklane Private Hospital Ltd.*, [1974] S.C.J. No. 82, [1975] 2 S.C.R. 47 at 60 (S.C.C.); *Association internationale des commis du detail, Local 486 v. Quebec (Commission des Relations de Travail)*, [1971] S.C.J. No. 81, [1971] S.C.R. 1043 at 1048 (S.C.C.); *Canada (Procureur Général) v. La Compagnie de Publication la Presse, Ltée*, [1966] S.C.J. No. 60, [1967] S.C.R. 60 at 69-70 (S.C.C.); *Merck Frosst Canada & Co. v. Apotex Inc.*, [2011] F.C.J. No. 1664, 2011 FCA 329 at para. 30-31 (F.C.A.); *Rivard v. Alberta Dental Hygienists' Assn.*, [2000] A.J. No. 873, 2000 ABCA 212 at para. 40 (Alta. C.A.); *Apotex Inc. v. Canada (Attorney General)*, [1993] F.C.J. No. 1098, [1994] 1 F.C. 742 at para. 114 (F.C.A.).

2 [2011] F.C.J. No. 1664, 2011 FCA 329 at paras. 30-33 (F.C.A.); *Nanaimo (Regional District) v. Spruston Enterprises Ltd.*, [1997] B.C.J. No. 1139, 34 B.C.L.R. (3d) 242 (B.C.S.C.), affd [1998] B.C.J. No. 2323, 54 B.C.L.R. (3d) 367 (B.C.C.A.).

Guide to Property Assessment and Taxation in Alberta

Alberta Municipal Affairs

Table of Contents

Preface

The *Guide to Property Assessment and Taxation in Alberta* was written to provide general information about the province's property assessment and taxation system. This guide will be helpful for anyone who wants or needs to have an understanding of how the province's property assessment and taxation system works.

The guide is structured to reflect the organization and process of the property assessment system in Alberta. It begins with the foundations of the system—the legislation and history—and follows the process through to show how property taxes are determined and levied based on a property's assessment.

Municipal Affairs welcomes feedback regarding this guide. Comments can be directed to the Assessment Services Branch at 780-422-1377 or lgsmail@gov.ab.ca.

This publication is available online at www.municipalaffairs.alberta.ca.

Chapter 1

Chapter 1

Overview of Alberta's property assessment and taxation system

This chapter highlights the nature, rationale, and foundations of the property assessment and taxation system in Alberta.

Topics include:

- The main features of the system
- The relationship between assessment and taxation

A brief history of property assessment and taxation

The purpose of assessment and taxation legislation in Alberta is to establish and maintain a property assessment system that fairly and equitably distributes taxes, and promotes transparency, predictability and stability for municipalities and taxpayers.

What is property assessment?

Property assessment is the process of assigning a dollar value to a property for taxation purposes. In Alberta property is taxed based on the *ad valorem* principle. *Ad valorem* means "according to value." This means the amount of tax paid is based on the value of the property.

Property taxes are a primary source of revenue for municipalities. Property taxes are used to finance local programs and services, such as:

- Garbage collection
- Water and sewer services
- Road construction and maintenance
- Parks and leisure facilities
- Police and fire protection
- Seniors' lodges
- Education

Property assessment is the method used to distribute the tax burden among property owners in a municipality. Each municipality is responsible for ensuring that each property owner pays his or her share of taxes.

Relationship between property assessment value and property taxes

Often the terms "assessment" and "taxation" are considered to be interchangeable. However, assessment and taxation are very different. Although one impacts the other, each is a distinct and independent process.

"Assessment" is the process of estimating a dollar value on a property for taxation purposes. This value is used to calculate the amount of taxes that will be charged to the owner of the property.

"Taxation" is the process of applying a tax rate to a property's assessed value to determine the taxes payable by the owner of that property.

The *Municipal Government Act* gives direction to Alberta municipalities in the areas of governance and administration, planning and development, and assessment and taxation.

2012-2017 - The *Municipal Government Act*

The government undertook an extensive review of the *Municipal Government Act* (MGA) between 2012-2017 with the objective to update and modernize the legislation to keep pace with our changing province. As part of the MGA review process, all related regulations were reviewed to support a modernized MGA, with existing regulations updated and some new regulations created to align with changes to the MGA.

The updated MGA is a culmination of over four years of comprehensive review and consultation.

Changes to the MGA were developed through careful analysis from Alberta stakeholders through discussion papers and collaborative work with key municipal partners, local citizens and businesses, community organizations, industry, builders and developers, the Alberta Urban Municipalities Association and the Alberta Association of Municipal Districts and Counties.

The MGA gives direction to municipalities to prepare assessments every year.

The MGA sets out two types of valuation standards—the market value standard and the regulated standard.

The market value standard is considered the most fair and equitable means of assessing property. It is fair because similar properties are assessed in the same manner; it is equitable because owners of similar properties in a municipality will pay a similar amount of property tax.

The regulated standard uses rates and procedures prescribed by Municipal Affairs to calculate assessed values for certain types of properties. These types of properties include farmland, machinery and equipment, and designated industrial property.

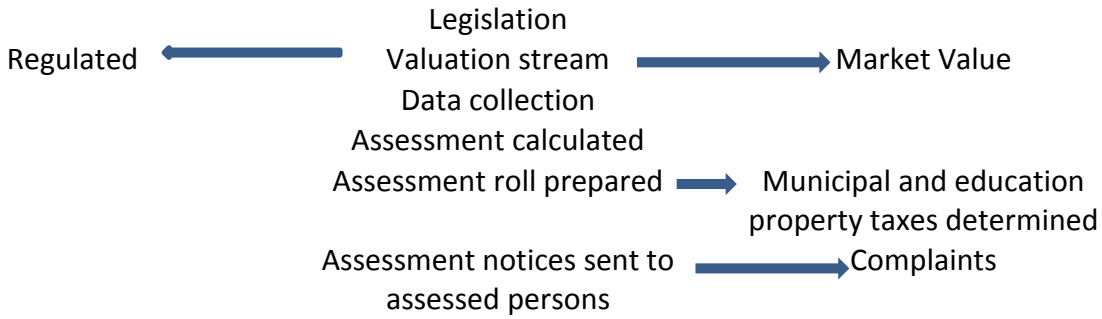
The valuation standards and property types are explained in further detail in Chapter 2.

The Alberta model of property assessment and taxation

The following chart illustrates the processes, connections, and components of the property assessment and taxation process in Alberta. Each step in the chart is explained in later chapters.

The assessment and taxation system begins with the laws outlined in the *MGA*. All activities that are associated with property assessment and taxation are governed by this legislation and its regulations.

Figure 1.1 The *Municipal Government Act*



The assessor interprets these rules to determine which valuation method must be used for each property. This process is explained in Chapter 2.

The assessor collects a variety of information to calculate a property assessment. The process of arriving at a property value is explained in Chapter 3.

Once the assessment is complete, the assessed value is entered on the assessment roll, which lists all of the property assessments in a municipality. Assessment notices are created from the information on the assessment roll. A notice is mailed to every property owner in a municipality. These steps are detailed in Chapter 3.

If a property owner does not agree with the information on his or her assessment notice, he or she may file a complaint. Alberta's assessment complaint process is explained in Chapter 3.

The assessment roll is used to calculate the amount of municipal and education property tax payable on each property. These are explained in Chapter 4.

Chapter 2

Chapter 2

Property assessment valuation standards in Alberta

This chapter describes the two valuation standards that are used to value property for assessment and property taxation purposes in Alberta—the market value standard and the regulated standard.

Topics include:

- Definition of market value
- How market value is determined
- Properties that are assessed with regulated rates and procedures
- How regulated values are determined

Market value standard

The market value standard is used to determine the assessed values for the majority of properties in Alberta.

Market value is the price a property might reasonably be expected to sell for if sold by a willing seller to a willing buyer after appropriate time and exposure in an open market.
Key characteristics of market value are:

- It is the most probable price, not the highest, lowest, or average price.
- It is expressed in terms of a dollar value.
- It assumes a transaction between unrelated parties in the open market.
- It assumes a willing buyer and a willing seller, with no advantage being taken by either party.
- It recognizes the present use and potential use of the property.

Sometimes the market value assessment of a property is assumed to be the sale price of an individual property. It is important to note that a market value assessment may not be the sale price. The sale price is an historical fact.

The sale price is the amount the purchaser agrees to pay and the seller agrees to accept under the circumstances surrounding the sale.

A sale price might not equal market value for any of the following reasons:

- The sale might not have occurred in the assessment year or the date on which the property was valued.
- The purchaser might not have been aware that similar properties were selling for more or less than the price for which the property was purchased.
- The buyer or seller may have been unduly motivated (for example, transferred to another city, needed to sell property as part of a divorce settlement, etc.).
- The sale may have involved a trade, partial interest, special financing, personal property, or assumed leases.

Assessors gather information on ranges of sale prices in the marketplace. This statistical data is used as part of the process for calculating market value assessments.

Sale price information helps to develop market value assessments. Assessments are calculated by analyzing the range of sale prices of groups of similar properties at a specific point in time. Several sales of similar properties are compared to determine typical market values of specific types of properties that have similar characteristics.

How Market Value is Determined

TABLE 2.1 THE THREE APPROACHES TO VALUE

Sales comparison approach	Compare sales prices of similar properties to the property being assessed
Cost approach	Market value of land + (cost of improvements – depreciation) = value of property
Income approach	Estimate what a potential purchaser would pay for a property given its expected rate of return (i.e. income-producing potential)

There are three approaches to determine the market value assessment of a property: the sales comparison approach; the cost approach; and the income approach. One or more of these approaches is used to arrive at a property's assessed value using the market value standard. The following sections outline each approach, and the types of properties each is best suited to.

Sales comparison approach
This approach is based on the theory that the market value of a property is directly related to the sale price of similar properties. When property types are similar, the sales comparison approach provides an indication of market value. This approach is best suited to residential properties and other types of property that sell frequently.

Cost approach
The cost approach is used when the property being valued is new or nearly new, in situations where few comparable sales are available, or when the improvements are unique or specialized.

The cost approach is based on the assumption that a purchaser would not pay any more to purchase a property than it would cost to buy the land and then rebuild the same improvements. An improvement is a building or structure so affixed to the land that it does not require special mention in a transfer document.
Values for properties that are assessed using the cost approach are determined by using the following formula:

Market value of land + (cost of improvements
– improvement depreciation) = total value of property

The assessor first determines the market value for the land. The cost of constructing the improvements is then added to the land value. Once the costs of the improvements have been determined, the assessor makes a deduction for depreciation of the improvement. Depreciation is a loss in value due to any reason. This includes normal wear and tear or a change in needs or style of a building.

Depreciation must be subtracted from the cost of the improvements to accurately value the improvements in their current condition.

Income approach
The theory behind this approach is that income-producing properties are bought and sold based on their income-earning potential. This approach is used to assess the value of rental properties, such as apartment buildings or rental office buildings.

Regulated standard

Some types of properties are difficult to assess using a market value assessment standard because:

- They seldom trade in the marketplace. When they do trade, the sale price usually includes non-assessable items that are difficult to separate from the sale price.
- They cross municipalities and municipal boundaries.
- They are of a unique nature.

Municipal Affairs prescribes rates and procedures to assess these types of properties, which are referred to as "regulated property". Rates and procedures are determined by what a type of property is used for, its activity, or its production capability.

Regulated property includes:

- Farmland
- Machinery and equipment
- Designated Industrial Property, including linear property, railway, and major industrial plants

Farmland

Farmland is assessed on the basis of its productive value for agricultural use. There are four classifications for agricultural use – dry arable land, dry pasture land, irrigated arable land, and woodlot.

Productive value means the ability of the land to produce income from the growing of crops or other horticultural products and/or the raising of livestock. The productive value of farmland is determined using a process that sets a value for the best soils, and then makes adjustments for less-than-optimum conditions such as climatic influences, the presence of stones, sloughs and other impediments to production, topography, etc.. A woodlot operation requires an approved woodland management plan.

When land is no longer used for farming operations, such as when the top soil has been removed in preparation for future development, the land will become assessable at market value.

Machinery and Equipment

Machinery and equipment includes a broad range of items used in manufacturing, processing and other industrial facilities, such as tanks, mixers, separators, fuel gas scrubbers, compressors, pumps, chemical injectors, and metering and analysis equipment.

Machinery and equipment is used in conjunction with properties such as meat processing plants, refineries, chemical plants, pulp and paper plants, and oil sands plants. Most machinery and equipment is assessed by the municipal assessor; however, machinery and equipment that is part of designated industrial property is assessed by the provincial assessor.

Designated Industrial Property

Designated industrial property includes linear property, railway, and specific major plants. The definition of designated industrial (DI) properties can be found in the MGA section 284 (f.01).

Linear properties have distribution lines or other facilities, and may cross municipal boundaries.

Linear property includes:

- Pipelines to transport petroleum products
- Electric power systems (generation, transmission, and distribution facilities)
- Telecommunication systems (including cellular telephone systems)
- Cable television systems
- Railway property
- Oil and gas wells

Assessment of these property types is carried out separately by the province.

The provincial assessor's assessment must reflect the specifications and characteristics for these regulated properties and the valuation standard, as outlined in the regulations.

Chapter 3

Chapter 3

Preparing property assessments

This chapter describes the property assessment process in Alberta.

The main topics include:

- What property is assessed
- Who prepares assessments in Alberta
- How assessments are prepared
- Inspections
- The property owner's right to information
- The assessment roll
- Assessment notices
- What property owners can do if they do not agree with their assessments

What is assessed?

Not all property is assessable for property tax purposes. The *MGA* outlines what property is assessable for taxation. The act defines property as:

- A parcel of land
- An improvement
- A parcel of land and the improvements to it

It does not include things like furniture, jewellery, automobiles, or other personal possessions. If a property cannot be assessed, this means it cannot be taxed. Properties that are not assessed or taxed include:

- Publicly owned infrastructure or equivalent privately owned facilities
- Minerals
- Indigenous reserves and settlements
- Growing crops

Some properties are assessable, but not taxable. Properties that are assessed but then exempted (in whole or in part) from taxation include:

- Most farm residences and improvements
- Environmental, conservation, municipal, and school reserves and other

underdeveloped property reserved for public utilities
- Government properties such as hospitals, libraries, and schools
- Colleges and universities
- Privately operated schools
- Churches and cemeteries
- Property owned by some non-profit organizations such as benevolent societies, boys' and girls' clubs, etc.
- Hostels

Who prepares assessments in Alberta?

Assessments for all types of property are prepared by professional, certified assessors. Assessors receive training in a variety of areas including property valuation techniques, legislation, and quality assurance.

The provincial assessor is responsible for all designated industrial property, while assessors employed or contracted by municipalities assess all other types of property.

Under provincial legislation, a municipality must appoint, by bylaw, a designated assessor. A designated assessor is responsible for the completion of a number of tasks laid out by provincial legislation and regulations.

To be the designated assessor for a municipality, an assessor must hold at least one of the following professional designations:

- Accredited Municipal Assessor of Alberta (AMAA) as granted by the Alberta Assessors' Association
- Certified Assessment Evaluator (CAE) as granted by the International Association of Assessing Officers
- Accredited Appraiser Canadian Institute (AACI) as granted by the Appraisal Institute of Canada

An assessor who does not hold one of the above designations may be designated the municipality's assessor if, in the opinion of the Minister of Municipal Affairs, he or she has a combination of education and professional experience that is equivalent to any or all of the three designations.

An assessor is hired by a municipality in one of two ways—as an employee of the municipality, or as a contractor. Contracting often occurs in smaller municipalities where the duties associated with calculating assessments are not a full- time activity. Regardless of the assessor's employment situation, all assessors, whether they are contractors or municipal employees, must follow the same procedures and legislation.

How assessments are prepared

The majority of assessments prepared by the municipal assessor are done based on market value using a technique called mass appraisal.

Mass appraisal

An appraisal is an estimate of value. Mass appraisal is the process of valuing a group of properties as of a given date, using common data, mathematical models, and statistical tests. Mass appraisal techniques allow assessors to accurately value a large number of properties in a short period of time.

Data collection

Before an assessment can be prepared, property data must be collected. Accurate and complete property records lead to more accurate assessed values. The more accurate the assessed values, the more equitable the entire assessment system is.

Detailed information about each property is gathered by making on-site visits or by corresponding with the owner of the property. Correspondence with a property owner usually occurs when the assessor is requesting information about commercial, industrial, or rental properties (such as apartment buildings or hotels). Information collected by the assessor in the assessment process is also available from other sources including Alberta Land Titles, real estate Multiple Listing Services, and financial institutions.

Valuation and condition dates

In Alberta, there are two key legislated dates by which certain assessment processes must be complete—the valuation date and the physical condition date.

The valuation date is a fixed point in time at which assessment values are based. The valuation date ensures that all properties in a municipality are valued as of the same date. The valuation date established by legislation is July 1. For example, for the 2018 tax year, the valuation date for property assessment is July 1, 2017. This means that a 2018 property assessment must reflect the value of the property as of July 1, 2017.

The second legislated date in the valuation process is the “characteristics and physical condition” date. This is the date on which the condition of the property is recorded for property assessment purposes. Under Alberta legislation, the condition date for property other than designated industrial property is December 31. For example, for the 2018 tax year, the condition date would be December 31, 2017. This means that although the value of the property reflects the market conditions as of July 1, it must reflect the physical condition of the property as of December, 31

Example: If a garage has been added to the property during 2017, the property assessment for the 2018 tax year would be based on its market value as of July 1, 2017. The previous year’s property assessment would not have included the garage because it was not built by the condition date (December 31, 2016).

Inspections

Sometimes, an assessor may decide that he or she needs to inspect a property in order for a fair and accurate assessment to be determined.

An inspection is conducted so that all characteristics of the property that affect the value are considered when the assessor determines the property's assessment. All newly constructed properties require an inspection. Likewise, existing properties need to be reviewed from time to time to ensure the information that is used to create the property's assessment remains accurate.

Under the *MGA*, an assessor may enter and inspect property and request any document to be produced to assist in preparing the assessment. The legislation states:

- The assessor is required to give reasonable notice to the owner or occupier before an inspection.
- The inspection must be at a reasonable time.
- The assessor is required to make copies of anything necessary to the inspection
- The assessor must be able to produce identification.

During an on-site inspection, the assessor will first explain the purpose of the visit, and request permission to carry out the inspection. The assessor will observe, record, and verify relevant physical details of the property.

This may include both an interior and exterior inspection of the property.

Where an assessor has requested information or documents about the property in order to prepare the assessment, and the person failed to provide the information within 60 days, the person cannot file a complaint on that property's assessment in the following year.

Property owners' rights to assessment information

Just as assessors abide by rules when collecting information for assessment purposes, taxpayers have a legislated right to know how their assessment is determined.
A municipality must provide information for the current year that is in the assessor's possession at the time of the request, showing how the assessment of a property was prepared, including:

a) all documents, records and other information in respect of that property;
b) descriptors and codes for variables used in the valuation model that was applied to the property;
c) where there is a range of descriptors or codes for a variable, the range and what descriptor and code was applied to the property; and
d) any adjustments that were made outside the value of the variables used in the valuation model that affected the assessment of the property.

In addition, the assessed person has the right to see the assessment roll, which lists the

assessed values for all properties in the municipality.

If requested to do so, a municipality must provide an assessed person with a summary of the assessment of any assessed property in the municipality, as long as the municipality is sure that necessary confidentiality will not be breached. A municipality may charge a fee for providing this information.

A summary of an assessment must include the following information that is in the assessor's possession or under the assessor's control at the time of the request:

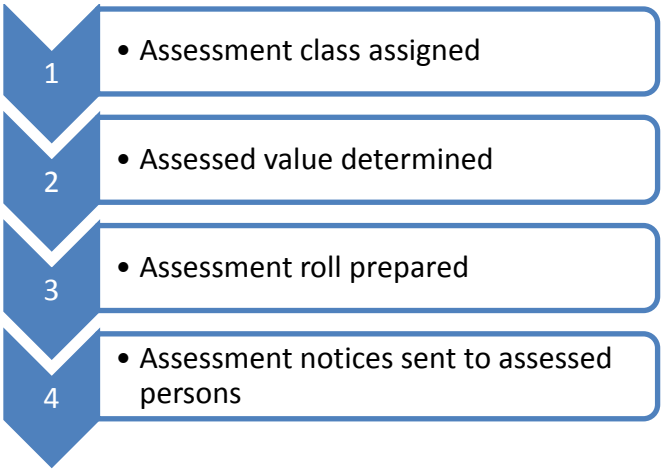
a) a description of the parcel of land and any improvements, to identify the type and use of the property;
b) the size and measurements of the parcel of land;
c) the age and size or measurement of any improvements;
d) the key attributes of any improvements to the parcel of land;
e) the assessed value and any adjustments to the assessed value of the parcel of land; and
f) any other information prescribed or otherwise described in the regulations.

If the person has filed a complaint against the assessment for that property, the municipality is no longer obligated to respond to a request for information until the complaint has been heard and decided by an assessment review board.

Similar rules apply for access to provincial assessment records for designated industrial property. The provincial assessor must comply provided confidentiality will not be breached.

After the assessed values of all properties in a municipality have been determined, there are a number of assessment documents that must be prepared.

Figure 3.1 Beyond Assessed Value



Assessment classes

After the assessed value of a property has been determined, the property is assigned an assessment class. This is an important part of the assessment and taxation process.

The assessment class determines the tax rate that will be applied to each property, as assessment classes may have different tax rates.

The assessor for the municipality is responsible for assigning the assessment classes to property. Property is classified according to its actual use. The classes are set out in the *MGA*.

They are:
Class 1 – residential
Class 2 – non-residential
Class 3 – farmland
Class 4 – machinery and equipment

Assessment roll

An assessment roll is a listing of all assessable properties in a municipality and their assessed values. The *MGA* requires each municipality to prepare an assessment roll no later than February 28 of each year.

The assessment roll prepared by a municipality must contain the following information for each assessed property:

- Assessed person (typically, the owner of the property), including name and mailing address
- Location
- Description of the property assessed (land, improvements, or land and improvements)
- Assessed value
- Assessment class(es)
- School support declaration
- Taxable status (total or partial exemption from taxation)

School support declarations

Canada's Constitution and the *Alberta School Act* establish Alberta's public and separate school system. As such, municipalities ask property owners to declare whether they support public school or a local Catholic or Protestant separate school district. Property owners indicate their support based on their faith and the proportion of ownership they hold in a property (50 per cent for two owners, 33 per cent for three owners, etc.). Where there is no separate school district, or a declaration is not filed, 100 per cent of education property tax dollars are directed to the public school boards.

Property owners may change their school support declaration at any time. A school support notice filed by a property owner becomes effective in the year following the year in which it is filed.

Assessment notices

Assessment notices are created from the information on the assessment roll. The assessment notice is the document municipalities send to property owners to tell them about the assessment of their property.

An assessment notice or an amended assessment notice must show the following:

a) the same information that is required to be shown on the assessment roll;
b) the notice of assessment date;
c) a statement that the assessed person may file a complaint not later than the complaint deadline; and
d) information respecting filing a complaint in accordance with the regulations.

Each year, municipalities and the provincial assessor will be required to set a "notice of assessment date" between January 1 and July 1 and mail the assessment notices seven days prior to the "notice of assessment date." Every municipality is required to send an assessment notice to every assessed person listed on the assessment roll. Each municipality must publish a notification in one issue of a local newspaper to announce that the assessment notices have been mailed to property owners within the municipality.

Sometimes an error is found on an assessment notice. The assessed person can contact the assessor to have this information corrected. Corrections can only be made to current-year assessment notices. This means that an assessor cannot change an error, omission, or wrong description on an assessment notice from a previous year.

Each property listed on the assessment roll in a municipality receives an assessment notice, even if it is exempt from property tax. One of the important features of Alberta's assessment system is that assessed persons have the ability to complain about their assessment or tax status. If an assessed party believes that his or her property should receive an exemption from assessment, property taxation, or both, then the property's exemption status can be challenged via an assessment complaint.

Assessment complaint system

To ensure that property owners have a voice in the property assessment system, the *MGA* provides property owners with the ability to ask for an independent review of their property assessment. Currently, there are three bodies that hear complaints, depending on the type of property being assessed: Local Assessment Review Boards (LARBs), Composite Assessment Review Boards (CARBs), and the Municipal Government Board (MGB).

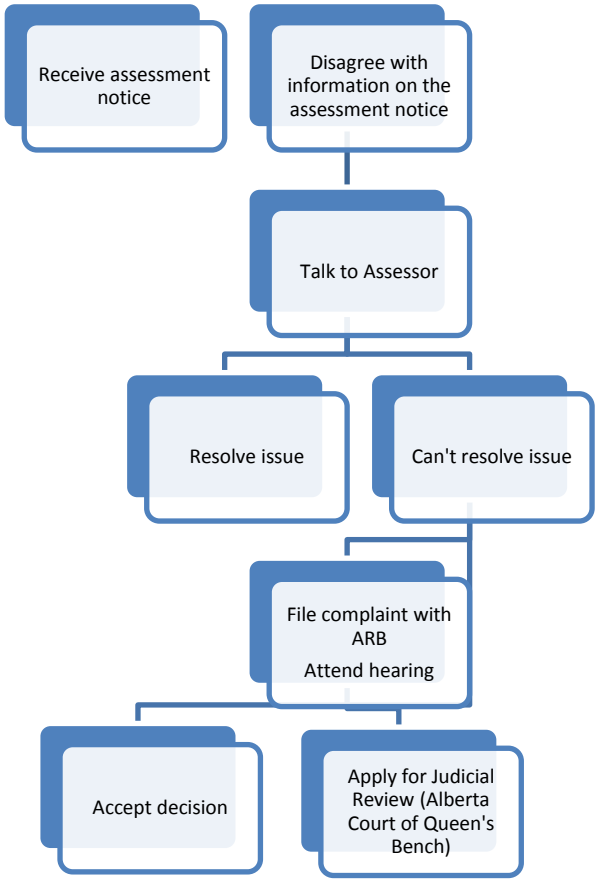
LARBs hear assessment complaints about residential properties with 3 or fewer dwelling units and

farmland, as well as complaints about tax notices other than those for property tax, business tax, or improvement area tax. CARBs hear assessment complaints about all other property types such as multi-family residential buildings, commercial and business properties, light industrial properties, etc., but not including any property that falls under designated industrial property. CARBs also hear complaints on tax notices for business tax or improvement areas. The MGB hears complaints on all designated industrial property, as well as equalized assessments.

The first step an assessed person should take if he or she believes his or her property assessment is unfair or inaccurate is to contact the assessor. The assessor can be reached by calling the municipality's office at the number listed on the assessment notice. The assessor may request to inspect the property to determine if an error was made. If the assessor agrees that the original notice is not accurate, a corrected notice may be issued.

If the assessor and the property owner cannot come to an agreement, the property owner may begin the formal complaint process by filing a complaint with the municipality's assessment review board. The deadline for filing a complaint with the assessment review board is noted on the assessment notice.

FIGURE 3.2 The Complaint System



Where an assessed person seeks judicial review of a board's decision, that person may file an application for judicial review to the Alberta Court of Queen's Bench.

An assessor may make a correction to an assessment that is under complaint. In such an instance, the assessor will send an amended assessment notice to the assessed person, and the assessor must also provide to the assessment review board a copy of the amended assessment notice along with a statement explaining why the correction was made, what the correction was, and how it affects the assessment. In this event, the assessment review board or the Municipal Government Board will cancel the current complaint and return the complaint fee, and the assessed person will have the right to a new complaint in respect of the amended assessment.

Assessment review boards

The assessment review board is a quasi-judicial administrative board.

This means it is created, empowered, and staffed according to the legislation laid out in the *MGA*. The board is like a court as it can order something to be done. In this case, it can order a change to the assessment on a property.

Assessment review boards hear complaints for all types of property assessments except designated industrial property.

Local assessment review board panels consist of three members who are appointed by the municipality. Composite assessment review board panels are made up of two members that are appointed by the municipality and one provincial member from the Municipal Government Board. The provincial member will act as presiding officer of a composite assessment review board and provide oversight and a provincial perspective. No three-person assessment review board panel may have more than one councilor.

Occasionally, one-member panels are established to deal with administrative or preliminary matters. The one-member panel for a local assessment review board cannot be a councilor and the one-member panel for a composite assessment review board must be the provincial member.

Who can make a complaint

Any assessed person, taxpayer, or person acting on behalf of an assessed person or taxpayer may file an assessment complaint. An agent for fee acting on behalf of a property owner or taxpayer must have written authorization to do so. If ownership of a property changes while a complaint is in progress, the new owner of the property or business then becomes the complainant involved in any proceeding before the board.

Complainants must demonstrate that the assessment of their property is not correct. Preparing a case for the complaint Hearing will take some time and research. Property owners who are considering filing a complaint may wish to consult the publication titled "Filing a property assessment complaint and preparing for your hearing." Copies of this publication may be found at the municipal office, or online at: www.municipalaffairs.alberta.ca.

As well, complainants may wish to contact their assessment review board office for details about the process and information required.

What a complaint can be about

A complaint may be filed about any of the following items listed on the assessment or tax notice:

- the description of the property or business
- the name or mailing address of an assessed person or taxpayer
- assessment amount
- assessment class
- assessment sub-class
- the type of property
- the type of improvement
- school support
- whether the property or business is assessable
- whether the property or business is exempt from taxation.

The assessment review board cannot hear complaints about the amount of property taxes or tax rates. Assessment review boards cannot change the tax rates or the services provided by the municipality. If a property owner has specific concerns about these issues, he or she may discuss them with the municipality's administration or council.

How to file a complaint

Complaints must be filed in the form prescribed in the regulations on or before the deadline shown on the assessment notice.

The complaint must:

- indicate what information shown on an assessment notice or tax notice is incorrect;
- explain in what respect that information is incorrect;
- indicate what the correct information is; and
- identify the requested assessed value, if the complaint relates to an assessment.

If an assessment notice and tax notice are combined, the deadline for filing a complaint is on the tax notice. Municipalities must give the assessed person 60 days from the notice of assessment date to file a complaint.

Once the complaint has been filed, the assessment review board clerk will receive, review, and categorize the complaint. All parties will be notified of the date of the hearing, the timelines by which disclosure of evidence is required to be provided to the other parties and to the board, and the rules for disclosure of evidence. At the hearing, the complainant presents his or her case to the board. The respondent (usually the local assessor) presents information on behalf of the municipality. The assessment review board has 30 days after the hearing within which to render its decision. All decisions of an assessment review board must be in writing.

Court of Queen's Bench of Alberta

Sometimes those affected by an assessment review board decision (property owners, assessors, etc.) are not happy with a decision made by the assessment review board. In this case, the assessed person may file an application for judicial review to the Court of Queen's Bench of Alberta. An application for judicial review must be filed within 60 days of the assessment review board's date of decision.

Impact of assessment complaint decisions

It is important to note that any decision an assessment review board makes is for the current year's assessment only.

This means that the decision does not apply to previous assessments, nor will it be applicable to the next year's property assessment. For example, if the assessed value of a property is decreased as a result of a board's decision, it will not result in adjustments to previous years' assessments, nor will it necessarily have any bearing on assessments that are prepared in the future.

Chapter 4

Chapter 4

Property assessments and taxes

This chapter examines taxation as a source of revenue for a municipality.

Topics include:

- Municipal property tax
- Provincial education property tax
- The importance of the equalized assessment
- Other property-related taxes used in Alberta

Municipal property taxation

Under the *MGA*, municipalities are responsible for collecting taxes for municipal and educational purposes. Property taxes are levied based on the value of the property as determined from the property assessment process. Property taxes are not a fee for service, but a way of distributing the cost for local government services and programs fairly throughout a municipality.

The property tax system is comprised of two distinct processes—preparing the assessments and setting the tax rate. The assessor's job is to prepare assessments. The municipal council is responsible for completing the second process, setting the tax rate. In addition to setting the tax rate, the municipal council is responsible for calculating the taxes payable, and collecting the taxes.

Tax rate

Each year, municipal councils determine the amount of money they need to operate their municipality. From this amount, the council then subtracts known revenues (for example, licenses, grants, and permits). The remainder is the amount of money the municipality needs to raise through property taxes in order to provide services for the year.

This revenue requirement is then used to calculate the tax rate. The tax rate is the percentage of assessed value at which each property is taxed in a municipality. The revenue requirement is divided by the assessment base (the total value of all assessed properties in the municipality). The tax rate calculation is expressed in the following formula:

Revenue Requirement / Assessment Base = Tax Rate

The tax rate is applied to each individual property assessment using the following formula:

Property Assessment x Tax rate = Taxes Payable

This formula means that the assessed value of the property in dollars is multiplied by the tax rate set by the municipality.

Education property taxes

In Alberta, education is a provincial program. The taxes that fund the program are raised and distributed on a provincial basis. Education property tax dollars are pooled in the Alberta School Foundation Fund and then allocated among school boards throughout the province.

This system of pooling taxes from all municipalities enables the province to provide all students with a standard level of education, no matter where they live.

Each year the province calculates the amount every Alberta municipality must contribute towards the public education system. The calculation is based on a formula that takes into account the equalized assessment in each municipality and the provincial uniform education property tax rate.

The province notifies municipalities of the amount of education taxes they are required to collect. Each municipality then establishes a local education property tax rate. This tax rate is calculated by dividing the required amount by the municipality's current taxable assessment.

The municipality then applies its local education tax rate to the assessed value of each property to determine the amount of education taxes each property owner is required to pay for the year. Municipalities include the education property tax on their annual property tax bills to property owners.

Municipalities collect education tax dollars from their ratepayers, and send them to the province and, in some instances, to a separate school board.

Other taxes

In addition to property tax, municipalities may generate revenue through other forms of tax.

Supplementary assessment and taxation

A municipality may pass a bylaw that allows it to assess improvements added to land after the December 31 condition date and collect property taxes on them for a portion of the current year. To do this, the assessor for the municipality must determine the value of the new improvements added since December 31 of the previous year.

This assessed value is then placed on the supplementary assessment roll. A supplementary assessment roll is prepared for new improvements with the same information as an annual assessment roll. The supplementary assessment roll is used to produce supplementary assessment notices.

Supplementary assessment notices must be sent to assessed persons before the end of the calendar year. Property taxes based on the supplementary assessment are pro-rated to reflect only the portion of the year the new improvement is completed, occupied, or in operation in the municipality.

Example: If a building was not completed on December 31, 2017, the annual assessment notice would reflect the value of the portion completed and taxes would be based on that amount. Assume the building is completed on May 1, 2018, a supplementary assessment notice could be sent out for the additional value of the building, and prorated property taxes could be levied for the remainder of the year (May1 – December 31, 2018).

Business tax

A municipality may choose to raise revenue by imposing a business tax bylaw on the businesses operating within its boundaries.

A business tax bylaw must be passed by the council before a municipality can impose a business tax. The business tax is payable by the person who operates the business, not the property owner. If the property owner also operates a business on the property, then the owner of that property would pay both property and business taxes.

In order for a municipality to be able to calculate business taxes, an assessor must first calculate a business assessment. There are five methods of calculating business assessment set out in the *MGA*. The methods that business assessment can be based on are:

- A percentage of the gross (before deductions) rental value of the building;
- A percentage of the net (after deductions) rental value of the building;
- The storage capacity of the building occupied by the assessed business;
- The floor space occupied by the business; or
- A percentage of the property assessment.

Councils may choose the method they feel best suits their municipality.

Business Improvement Area Tax
Sometimes business owners wish to improve the area in which they do business. Improving the area can mean constructing improvements, installing decorative lighting, plantings, boulevards, improving parking in the business improvement area, or any other type of improvements that will beautify and maintain property. They may lobby the local council to establish a Business Improvement Area levy (BIA). It is within the BIA that any improvements will be done. Specific BIA taxes will be shown on business tax notices for all businesses operating in the BIA. The tax is paid by the business owner, like business tax, and is payable for the current year on the same date business taxes are due.

Community Aggregate Payment Levy
A municipality may pass a community aggregate payment levy bylaw to impose a levy in respect of all sand and gravel businesses operating in the municipality. This levy is intended to raise revenue to be used toward the payment of infrastructure and other costs in the municipality. A community aggregate payment levy must be paid by the persons who operate sand and gravel operations in the municipality.

Local Improvement Tax
A local improvement tax is imposed on a specific area within a municipality to fund a service or improvement applied to a particular area only. The improvement benefits that particular area of the municipality rather than the municipality as a whole. Some examples of local improvements are sidewalks, lane lighting, or paving.

Local improvement taxes are applied to land. This means that the owner of the land is responsible for paying the local improvement tax. A local improvement tax is allocated as an annual charge but may be charged for a set number of years.

Special Tax
A municipality may choose to provide or construct a special service that will benefit a defined area within a municipality. The municipality would levy a special tax to fund the project.

Some examples of special services or constructions include:

- Waterworks and sewers
- Boulevards, pavement, and drainage ditches
- Dust treatment
- Repair and maintenance of roads, boulevards, sewers, and water lines
- Ambulance service and fire protection
- Recreational services

A special tax can only be imposed if council passes a bylaw. This must be done on an annual basis. Any revenue from a special tax must be applied to the specific service or purpose that is

stated in the bylaw. A property owner is responsible for paying this tax.

Well Drilling Equipment Tax

This tax is imposed on equipment used to drill an oil or gas well. It is payable by the person who holds a license under the *Oil and Gas Conservation Act* for the well being drilled.

The well drilling equipment tax is a one-time tax. It is an optional tax that municipalities may choose to impose.

Grants in Place of Taxes

As mentioned previously, some types of property are exempt from taxation. One kind of exempt property is property owned by the Alberta or federal government.

A municipality can apply for a grant in place of taxes equal to the amount it would have collected in property taxes if it were owned by a party other than the government. An example of this would be an office building that is owned by the Government of Alberta.

If the property was owned by anyone other than the Crown, the owner would pay property taxes. Because the building is owned by the government, the municipality annually applies for a grant from the provincial government equal to what the property taxes would be for that property for that year.

Glossary

Ad Valorem	According to value. An ad valorem tax is one that is levied in proportion to the value of the thing(s) being taxed.
Alberta School Foundation Fund	A provincial government fund into which all education funds are pooled. This fund was created to provide equitable educational funding to all school boards. The province then allocates the funds to public and separate system schools in the province.
Assessment	Process of placing a dollar value on properties for taxation purposes. The value of the assessment determines the amount of taxes that will be charged to the owner of the property.
Assessment base	The total assessed value of all property within a municipality.
Assessment classes	Under Alberta legislation, one of four classes (residential, non-residential, farmland, and machinery and equipment) to which assessed property is assigned.
Assessment notice	Assessment notices are created from the information on the assessment roll.
Assessment Review Board	Provides a forum for individuals or corporations to challenge their property or business assessments, except linear property.
Assessment roll	List of all assessable properties and their assessed values. The MGA requires each municipality to produce an assessment roll each year. The roll must be completed by February 28 each year.
Business improvement area tax	Tax imposed on a designated business revitalization zone to fund improvements that will beautify and maintain the area.
Business tax	Tax to raise revenues from businesses within a municipality's boundaries. A municipal council must pass a bylaw to impose a business tax. The business tax payable is the responsibility of the person operating the business.
Community aggregate payment levy	A levy on all sand and gravel businesses operating in a municipality to raise revenue to be used toward the payment of infrastructure and other costs in the municipality.
Condition date	The date on which the condition of the property is fixed for property assessment purposes. The condition date in Alberta is October 31 for Designated Industrial Property, and December 31 for all other property.
Cost approach	One of the approaches used to value property for assessment purposes. The cost approach is based on the theory that a person would pay no more for an object than it would cost to replace it. With regard to property, the assumption is that a purchaser would not pay any more to purchase a property than it would cost to buy the land and then rebuild the same buildings or improvements.

Court of Queen's Bench	Hears judicial reviews from decisions of assessment review boards.
Designated Industrial Properties	Facilities regulated by the Alberta Energy Regulator, the Alberta Utilities Commission or the National Energy Board, including land and improvements; linear property which includes electric power systems, telecommunication systems, wells, pipelines, and railway; major plants as set out in the regulations.
Depreciation	A loss in value due to any cause.
Education requisition	The amount of tax a municipality must collect for education purposes.
Education tax	The amount each assessed person must contribute towards a municipality's overall provincial education requisition. It is included on each property owner's tax bill.
Equalized assessment	Equalized assessment is an annual calculation that creates a common assessment base for distributing the provincial education property tax requisition among municipalities, the regional requisitions of some housing authorities, and may also be used to distribute provincial and federal grants among municipalities.
Exemption	A complete or partial elimination of assessment and/or property taxation.
Improvements	Buildings, or other structures, and attachments to land that are intended to remain attached (i.e. sidewalks, tunnels, pavement, etc.).
Income approach	One of the approaches used to value property for assessment purposes. The income approach is based on the theory that income-producing properties are bought and sold based on their income-earning potential.
Linear property	Property that generally has distribution networks or other facilities, and may extend across municipal boundaries (for example, oil and gas wells, pipelines, and electric power systems).
Local improvement tax	A tax imposed on a specific region in a municipality that funds a service or improvement applied to a particular area only.
Market value	The price a property might reasonably be expected to sell for if sold by a willing seller to a willing buyer after appropriate time and exposure on an open market.
Market value standard	Property assessment standard based on market value.
Mass appraisal	Process of valuing a group of properties as of a given date, using common data, mathematical models, and statistical tests. The use of mass appraisal allows assessors to accurately value a large number of properties in a short period of time.

Municipal Government Act	The legislation governing aspects of municipal government activities in Alberta, including assessment and municipal taxation powers.
Personal property	All moveable items of property not permanently attached to, or part of, the real estate. Examples include automobiles, furniture, jewellery, and works of art.
Real estate	The physical parcel of land and all improvements permanently attached.
Regulated Standard	Property assessment standard based on rates and procedures prescribed by Municipal Affairs.
Regulated property	Farmland, machinery and equipment, linear property, and railway property.
Sales comparison approach	One of the approaches used to value property for assessment purposes. This approach is based on the theory that the market value of a property is directly related to the prices of similar properties.
Special tax	A tax to fund a special service that will benefit a defined area within a municipality.
Supplementary assessment	Assessment of improvements that were constructed during a year and not captured on the annual assessment notice.
Supplementary taxation	Levying taxes based on supplementary assessments.
Tax burden	Economic costs or losses resulting from the imposition of a tax.
Tax rate	Percentage of assessed value at which each property is taxed in a municipality. Some municipalities express this in terms of mills or mill rate.
Taxation	The process of applying a tax rate to an assessed value to determine the taxes owing.
Valuation date	A fixed point in time on which assessment values are based. The valuation date in Alberta is July 1.
Well drilling equipment tax	Tax imposed on equipment used to drill an oil or gas well.

Law of Canadian Municipal Corporations § 24:44

Law of Canadian Municipal Corporations
Ian MacFee Rogers

Chapter 24. Attacks on By-Laws

V. Matters Not Constituting Illegality

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§ 24:44. Uncertainty of Meaning or Application of By-Law

A by-law will not as a rule be quashed for want of clearness of expression alone, for such want of clearness does not constitute illegality and the meaning may be rendered clear by the application of the ordinary rules of construction; if this is not possible, the by-law will remain ineffective [1]. Merely because a by-law may require interpretation or is difficult to interpret is no reason to avoid it for uncertainty [2]. Simply because a term used in a by-law is susceptible of more than one interpretation the by-law is not necessarily bad for uncertainty [3] particularly when the term has been employed by the legislature in conferring the power in question [4]. Nor is a by-law uncertain if the intention of the enacting body is reasonably clear [5], or if its meaning can be rendered certain either by construction or evidence [6], or any ambiguity can be resolved by applying ordinary English meanings of words [7]. So a by-law is not void for uncertainty if a reasonable meaning might be attached to it [8]. If, however, after the doubtful matter in a by-law has been resolved, it is found to be beyond the competence of the municipality to enact, it does not differ from any other illegal by-law [9]. Nor is a by-law invalid on this ground merely be cause it is related as to time to the happening of a future event, the exact date of which is not determined at the passing of the by-law [10], but the contrary has been held [11]. A by-law's breadth does not mean it is unclear or ambiguous, and as such may be reasonably upheld [12].

Contrary to the rule that uncertainty does not constitute illegality, expressions are found in some of the cases which suggest otherwise. By-laws have been found to be void on the ground of vagueness and the courts have deplored the tendency to enact general and abstract by-laws leaving it to the court to define the extent of their application [13]. It has been held that a by-law must be certain and definite, that is, it must contain adequate information as to the duty of those who are to obey it [14]. Yet it has also been held that the words of a bylaw must be "sufficiently precise or reasonably delineated to allow for intelligible or legal debate in its application to specific fact situations" [15]. A by-law should be written with enough specificity to enable citizens to perceive their obligations in advance so that they can govern their actions accordingly. Broadly defining "store" with imprecise measuring provisions for size exemptions made it difficult for one to determine whether he qualified for an exemption and rendered the by-law void for uncertainty [16]. So, too, it must indicate with sufficient precision who has a duty and who is liable if the by-law is violated [17]. A by-law to control the showing of sexually explicit films was unenforceable because of the uncertainty related to the breadth of business to which it could be applied [18]. The absence of a definition section in the by-law is not fatal if the technical terms used are clearly discernible from the purpose of both the by-law and the enabling statute [19].

Part of a definition in a by-law was held to be void because its generality rendered it uncertain [20]. So, too, a by-law was quashed because one of its definitions required clarification and explanation not found in its provisions [21]. Moreover, it is no answer to vagueness and uncertainty in the by-law to say that it incorporates exact definitions found in the Act, if mere repetition of the definitions, without more particulars, fails to give any indication of the scope of the by-law to enable a citizen to understand it [22]. A by-law prohibiting the manufacture of "dangerous goods", defined as comprising all products set out in the British

Columbia Fire Code Regulations and National Fire Protection Association Code, was held to be void because of uncertainty in its meaning as science progressed and new subjects were dealt with [23].

Early closing by-laws have been minutely examined and challenged for failure to define their terms precisely or to define them at all. The term "small" used to describe articles in an early closing by-law has been held to offend the rule against vagueness [24]. Likewise, omission to define the term "principal business" in an early closing by-law so as to enable the store owner to determine whether his liability is negatived has been held to render a by-law uncertain [25]. An early closing by-law cannot be struck down for uncertainty merely because certain definitions pertaining to retail businesses and business areas were not precisely defined [26].

The phrase "within a reasonable time" rendered a provision in a by-law uncertain and therefore invalid for this reason [27]. Likewise, a requirement that a store owner must "make reasonable efforts to prevent smoking" in his shop in accordance with an anti-smoking by-law was held invalid for uncertainty [28]. A by-law prohibiting "sex-oriented products" defined as "graphic sexual material, sex acts, pharmaceutical or educational products" was held void for uncertainty since the words have such wide and differing meanings that do not provide standards for determining whether books, films and other material fall within the purview of the by-law [29]. A zoning by-law regulating land use with respect to the aged was held not to be void for uncertainty because "aged" was not defined. There was nothing ambiguous regarding the use of the word and the plain and ordinary meaning should be applied [30].

By-laws have been held void for uncertainty because they have not defined accurately or at all the area of land to which they purport to apply as in the case of expropriation by-laws [31], zoning by-laws [32], fire limits by-laws [33], by-laws opening and closing highways [34] and those establishing school sections [35].

Footnotes

1 "I am not disposed to give the slightest countenance to motions to quash by-laws, on any ground such as a want of clearness of expression, or a difficulty in construing or applying its provisions. If it be impossible to apply its provisions, they will remain unapplied; if they are uncertain, there may be difficulty in construing and acting upon them, but we are not to be called upon *a priori* to discuss and determine such questions": per Draper C.J. in Smith v. Toronto (City) (1859), 10 U.C.C.P. 225, at p. 228 (U.C. C.P.); in Daines v. Toronto (City) (1921), 49 O.L.R. 285, at p. 288, 58 D.L.R. 565 (Ont. S.C.).

"If … it is unintelligible, it will be impossible to say whether its provisions are illegal or not, and it will be merely inoperative": per Bain J. in Elliott, Re (1896), 11 Man. R. 358 (Man. Q.B.). See also Deronin v. Cornwall (Town), [1940] O.W.N. 189, [1940] 3 D.L.R. 260 (Ont. H.C.), affirmed on other grounds [1940] O.W.N. 384, [1940] 4 D.L.R. 410, 74 C.C.C. 196 (Ont. C.A.). See also Montreal (Ville) v. 2952–1366 Québec inc., [2005] S.C.J. No. 63, 2005 CarswellQue 9633, 2005 CarswellQue 9634, (*sub nom.* Montréal (City) v. 2952–1366 Québec Inc.) 134 C.R.R. (2d) 196, [2005] 3 S.C.R. 141, 201 C.C.C. (3d) 161, 32 Admin. L.R. (4th) 159, 15 M.P.L.R. (4th) 1, 2005 SCC 62, 258 D.L.R. (4th) 595, (*sub nom.* Montreal (City) v. 2952–1366 Québec Inc.) 340 N.R. 305, 18 C.E.L.R. (3d) 1, 33 C.R. (6th) 78 (S.C.C.), in which the Supreme Court of Canada interpreted a noise by-law and how it applied to music being played in the street. The Court rejected the idea that the bylaw was unclear saying that interpretation should be made in context of the situation.

2 Brown v. Vancouver (City) (1986), 31 M.P.L.R. 197, 69 B.C.L.R. 308, 24 D.L.R. (4th) 434 (B.C. S.C.); Neilson Engineering Ltd. v. Toronto (City), [1968] 1 O.R. 271, 66 D.L.R. (2d) 218 (Ont. H.C.).

3 Montreal (City) v. Morgan, 60 S.C.R. 393, at p. 404, [1920] 3 W.W.R. 36 (S.C.C.).

4 Harris v. Hamilton (City) (1879), 44 U.C.Q.B. 641 (Ont. Q.B.).

5 Springbank (Municipal District) v. Render, [1936] 2 W.W.R. 430, [1936] 4 D.L.R. 193 (Alta. C.A.); Bent, Re, [1940] 2 W.W.R. 697 (B.C. S.C.). See also Kelowna Mountain Development Services Ltd. v. Central Okanagan (Regional District), 2014 BCSC 308, 2014 CarswellBC 514, 21 M.P.L.R. (5th) 271 (B.C. S.C.), and West Vancouver (District) v. Morshedian, 2017 BCSC 408, 2017 CarswellBC 657 (B.C. S.C.).

6 Southland Canada Inc. v. Oshawa (City) (1984), 46 O.R. (2d) 515 (Ont. H.C.); Rolling Lands Ltd. v. Hamilton-Wentworth (Regional Municipality) (1980), 31 O.R. (2d) 624, 119 D.L.R. (3d) 317 (Ont. Div. Ct.); Bourgon v. Cumberland (Township) (1910), 22 O.L.R. 256 (Ont. C.A.); Brewer v. Toronto (City) (1909), 19 O.L.R. 411 (Ont. C.A.); Armour v. Onondaga (Township) (1907), 14 O.L.R. 606, at p. 610 (Ont. Weekly Ct.), leave to appeal refused 42 S.C.R. 218 (S.C.C.); Cribbin v. Toronto (City) (1891), 21 O.R. 325 (Ont. C.A.).

7 Harrison v. Toronto (City) (1982), 19 M.P.L.R. 310, 140 D.L.R. (3d) 309 (Ont. H.C.).

8 Farkas v. White Rock (City) (1979), 13 B.C.L.R. 372 (B.C. S.C.) (complicated definition of "height" in by-law). A noise control by-law was not defective by reason of using as a test whether noise was "easily heard" such a determination being one of fact and susceptible to proof by evidence, not opinion: Hadden v. R., [1983] 3 W.W.R. 661, 21 M.P.L.R. 243, (*sub nom.* R. v. Hadden) 23 Sask. R. 303 (Sask. Q.B.), affirmed [1984] 1 W.W.R. 384 (Sask. C.A.).

9 Hassard v. Toronto (City) (1908), 16 O.L.R. 500 (Ont. Div. Ct.); Mitchell v. Saugeen (1919), 46 O.L.R. 279 (Ont. Div. Ct.).

10 R. v. McMillan (1896), 28 O.R. 172 (Ont. C.A.). *Cf.* Wallace v. Dauphin (Town) (1932), 40 Man. R. 474 (Man. K.B.), where a by-law was invalidated because it was contingent on the willingness of a person to enter into an agreement.

11 Cloutier, Re (1896), 11 Man. R. 220 (Man. C.A.).

12 Milan Consulting and Construction Ltd. v. Regina (City), 2016 SKQB 31, 2016 CarswellSask 66 (Sask. Q.B.).

13 Cie Miron Ltee v. R. (1979), 7 M.P.L.R. 28 (Que. C.A.) (air pollution regulation).

14 Barthropp v. West Vancouver (District) (1979), 17 B.C.L.R. 202 (B.C. S.C.); British Columbia Electric Co. v. Surrey (District) (1956), 18 W.W.R. 462, at p. 468, 1 D.L.R. (2d) 717 (B.C. S.C.), affirmed 19 W.W.R. 603, 5 D.L.R. (2d) 399 (B.C. C.A.).

15 In Mississauga (City) v. 1094388 Ontario Limited (o/a Pure Gold Adult Entertainment), 2014 ONCJ 674 (Ont. C.J.).

16 Yorkton v. Markborough Properties Investments Inc. (1991), 7 M.P.L.R. (2d) 289 (Sask. Q.B.).

17 Cormier v. Cite de Lasalle (1982), 20 M.P.L.R. 185 (C.S. Que.),

18 Perry v. Vancouver (City) (1990), 1 M.P.L.R. (2d) 69, 48 B.C.L.R. (2d) 342 (B.C. S.C.).

19 Labatt Brewing Co. v. Winnipeg Tax Collector (1994), 23 M.P.L.R. (2d) 81 (Man. Q.B.).

20 R. v. Wong, [1937] 1 W.W.R. 552, 45 Man. R. 137, 68 C.C.C. 236, [1937] 2 D.L.R. 802 (Man. C.A.). See also Clarke v. Wawken (Rural Municipality), [1930] 1 W.W.R. 319, 24 Sask. L.R. 327, 53 C.C.C. 366, [1930] 2 D.L.R. 596 (Sask. C.A.).

21 Dery v. Victoria (City) (1962), 38 W.W.R. 215 (B.C. S.C.). Definition of "seasonal dwellings" in zoning by-law held void for uncertainty: Mueller v. Tiny (Township) (1976), 13 O.R. (2d) 626, 72 D.L.R. (3d) 28 (Ont. H.C.). But a definition of "seasonal dwelling house" in a by-law upheld even though there were difficulties of interpretation: Horseshoe Valley Ltd. v. Medonte (Township) (1977), 16 O.R. (2d) 709, 79 D.L.R. (3d) 156 (Ont. H.C.).

22 Hamilton Independent Variety and Confectionary Stores Inc. v. Hamilton (1982), 20 M.P.L.R. 241, 143 D.L.R. (3d) 498 (Ont. C.A.).

23 Canadian Occidental Petroleum Ltd. v. North Vancouver (District) (1983), 46 B.C.L.R. 179, 148 D.L.R. (3d) 255 (B.C. S.C.). The by-law, which was re-enacted, was also quashed because the undetermined definition of "explosives" prevented an interested party from reaching an informed conclusion: *Can. Occidental Petroleum Ltd. v. North Vancouver (No. 2)*

24 Re Bunce and Cobourg [1963] 2 O.R. 343, 39 D.L.R. (2d) 513 (C.A.); R. v. Debaji Foods Ltd. (1981)30 A.R. 143, 124 D.L.R. (3d) 254 (C.A.) (clauses exempting certain classes of business from early closing held to be incapable of sensible application and therefore bad for uncertainty).

25 Re Dartmouth and S.S. Kresge Ltd. (1966) 58 D.L.R. (2d) 229 (N.S. C.A.).

26 Lethbridge v. Denyle Enterprises Inc. (1989) 46 M.P.L.R. 154 (Alta. Prov. Ct.).

27 Long Branch v. Hogle [1947] O.R. 436, 89 C.C.C. 188, [1947] 3 D.L.R. 428, varied [1948] S.C.R. 557, [1948] 4 D.L.R. 652, 92 C.C.C. 147. See also Wallace v. Dauphin (1932) 40 Man. R. 474.

28 Re Weir and R. (1979) 26 O.R. (2d) 326, 51 C.C.C. (2d) 49, 102 D.L.R. (3d) 273 (Div. Ct.). See Re Hamilton Hospitality Indust. Assn. Inc. and Hamilton (1981) 32 O.R. 353, 122 D.L.R. (3d) 266 (Div. Ct.) (the term "restaurant" was not defined).

29 Red Hot Video Ltd. v. Vancouver (1985), 29 M.P.L.R. 211, 18 C.C.C. (3d) 153 (B.C.C.A.), reversing on other grounds 48 B.C.L.R. 381, 24 M.P.L.R. 60, 5 D.L.R. (4th) 61.

30 Alcoholism Foundation of Man. v. Winnipeg [1990] 6 W.W.R. 232, 49 M.P.L.R. 1 (Man. C.A.).

31 Waterloo v. Berlin (1904) 8 O.L.R. 335, at p. 337 (C.A.); Re Mitchell and Saugeen (1919) 46 O.L.R. 279.

32 Re Goldstein and Windsor (1928) 35 O.W.N. 9.

33 Hirsch v. Winnipeg Beach (1961) 26 D.L.R. (2d) 69 (Man. C.A.).

34 Wannamaker v. Green (1886), 10 O.R. 457 (C.A.).

35 Re Sydenham School Sections (1903) 6 O.L.R. 417, affirmed 7 O.L.R. 49 (C.A.); Haache v. Markham. (1859) 17 U.C.Q.B. 562 (C.A.).

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Law of Canadian Municipal Corporations § 24:52

Law of Canadian Municipal Corporations
Ian MacFee Rogers

Chapter 24. Attacks on By-Laws

VI. Judicial Discretion in Quashing

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§ 24:52. Severability

It has been said that: "A by-law may be compared to an egg. If bad in part, it is bad everywhere?" [1]. This is not so, for a by-law may be good in part and bad in part. The statutory authority to quash by-laws vested in the court is to quash such by-laws "in whole or in part?" [2]. If, therefore, a by-law is illegal in part only and that which is legal can be separated from that which is illegal, the court will separate the good from the bad and preserve the former [3]. If, however, this cannot be done, the whole by-law will fall [4]. This is known as the rule of severability and the courts have evolved principles to assist them in deciding whether it can be invoked. Care should be taken by the courts in applying the rule in order to avoid lawmaking through leaving a portion of a by-law intact which the enacting body would never have passed in such truncated form [5]. The court, after finding the clause imposing the permit fee was illegal, refused to sever it from the by-law in view of the danger that the by-law would stand in a form not intended by the council [6].

The portion that is good must be clearly distinguished from the part that is bad so that if the invalid portion is eliminated, there will still remain a perfect and complete by-law capable of being enforced. The parts so separated must not be connected with or essential to each other [7]. Since the invalid portion of a noise by-law was not clearly distinguishable from the good portion, the whole by-law was held to be invalid [8]. Moreover, the rule should only be applied to by-laws where the parts sought to be preserved relate to distinct subject matters [9].

The rule has been applied with respect to an illegal penalty superimposed upon another penalty leaving the good penalty and the rest of the by-law unaffected [10] and a penalty clause will apply to the parts of a by-law which are not quashed [11].

If the parts are so blended that they cannot be separated, and the invalid provisions are integral and indispensable parts of the whole, the whole by-law must be quashed [12]. The court ought not to sever where the parts do not relate to distinct subject matters [13]. So where a by-law provides for the raising of money for three purposes comprising a single scheme and it was illegal with respect to one purpose it could not be preserved as to the other purposes [14]. Thus where a general scheme adopted by one by-law has a twofold purpose, one of which is *ultra vires,* and which is incapable of segregation from the whole scheme, the by-law falls as a whole [15].

The court will not declare a by-law good as to the remainder unless it can be presumed that the council would have passed only the good part if it had realized the rest was *ultra vires.* Moreover, even if the two parts admit of easy severance, if the result would be to leave a "truncated" by-law bringing about a result never contemplated by the council and to defeat the council's intention, the entire by-law will fall [16]. The intention of the council should therefore be looked at. It must be shown that the council would have voted for the good part without the bad part and if not, the by-law must be quashed in entirety [17]. A court refused to sever an illegal clause in a by-law allowing a variable permit fee in view of the danger that the by-law would stand

in a form not intended by the council [18]. If by severing the bad part it involves a rewriting of the by-law, it is preferable that the council rather than the court undertake that task [19].

The parts upheld must form, independently of the invalid portion, a complete law in some reasonable aspect so that it may fairly be concluded that the council would have enacted it without the invalid part. The test is: has the council shown an intention to deal with a part of the subject matter legislated upon irrespective of the rest of the subject matter? If so the good is severable from the bad [20]. Accordingly, where the council has considered and adopted a single scheme, having two parts, one of which is *ultra vires,* the court will not sever the two parts if they cannot be regarded as having been considered separately and independently of each other by the council [21].

Provisions in an early closing by-law which exempted certain categories of businesses which were void for uncertainty were held to be severable from the by-law which could have been passed by council without these provisions considering the scope of the by-law and the number of exemptions other than those void for uncertainty [22]. So where it was clear that the City would have enacted the initial operative parts of the by-law without the impugned provision if it had been aware that such provision was invalid because of its vague and unclear wording, the latter was severable [23].

In anticipation of a possible attack on a by-law, a clause is sometimes included declaring that it is the intention of the legislators that any part of it held invalid be severable from the remainder of the by-law. The courts have given effect to such a clause as an indication of council's intention [24], but have held that it is not binding being only a factor to be applied in determining severability [25]. An exemption clause in a by-law was void but severable. However, having the severability clause linked to a discrete section of the by-law had a greater bearing on the issue of council's primary intention than would an omnibus severability clause [26]. The of it was declared invalid, and the remainder of the by-law could stand independently of the invalid portion [27]. But the clause cannot override the primary intent of council gathered from the legislative history, the pre-amble and the by-law itself [28].

There are 3 classes of by-laws to which the courts have for the most part refused to apply the rule of severability: 1) zoning by-laws, 2) by-laws passed pursuant to petition or other non-discretionary authority and 3) by-laws passed with the approval of a municipal board. It would seem that if such by-laws are defective in part, this vitiates the whole by-law. Building restrictions by-laws are generally adopted, as a single scheme which is designed and adopted as a whole [29], and in every case the court has refused to sever [30]. The second class consists of by-laws passed under a non-discretionary authority pursuant to a petition, such as an early closing by-law with respect to which it cannot be presumed that the petitioners would have requested only the good part of the by-law [31]. The third exception to the general rule as to severability where possible is with respect to by-laws which depend for their coming into effect upon the approval of them as a whole by a municipal board. Such by-laws must stand or fall *in toto* since the court cannot amend a by-law so as to usurp the function of the board [32]. However, where a penalty provision of a by-law requiring the approval of the board was invalidated, it was held that the court could permit the rest of the by-law to stand since the penalty provision was enacted under s. 520 and not under the section requiring the board's approval [33].

Footnotes

1 Per Latchford C.J.A., in Re Morrison and Kingston [1938] O.R. 21 (C.A.).

2 Cities and Towns Act (Que.), s. 397; Municipal Acts (Ont.), s. 136(1); (Man.), s. 382(3); Municipalities Act (Sask.), s. 358(1); Local Government Act (B.C.), s. 623(2)(a).

3 "We may, I think, lop off this rotten limb, and leave the tree to which it was attached in full vitality. It is unnecessary to its existence, and to its bearing the fruit it was intended to produce?": per Draper C.J. in Re Michie and Toronto (1862) 11 U.C.C.P. 379, at p. 386 (C.A.).

See also R. v. Knapman [1953] O.W.N. 541 (C.A.); Re Teck Hughes Gold Mines Ltd. and Teck (1928) 35 O.W.N. 103; R. v. Van Norman (1909) 19 O.L.R. 447, at p. 455; Re Taylor and Port Stanley (1918) 14 O.W.N. 108; Re Harris and Hamilton (1879) 44 U.C.Q.B. 641; Re McLeod and Kincardine (1876) 36 U.C.Q.B. 617; R. v. Penner [1930] 1 D.L.R. 834, 53 C.C.C. 242 (Man. C.A.); Re Smeaton and Shoal Lake By-law [1934] 1 W.W.R. 245, 41 Man. R. 649, [1934] 2 D.L.R. 493 (C.A.); Riches v. Richmond [1933] 3 D.L.R. 437 (B.C. C.A.); Re Middleton and Goderich [1931] 4 D.L.R. 75. See also The Corporation of the City of Kingston v. Doe, 2023 ONSC 6662, 2023 CarswellOnt 18247, 48 M.P.L.R. (6th) 29, 541 C.R.R. (2d) 255 (Ont. S.C.J.) where one section of a bylaw was struck.

4 "The whole by-law must fall, because assuming it to be in other respects good there is no means of severing the bad from the good?": per Meredith J. in Re Hay and Listowel (1897) 28 O.R. 332, at p. 335. See also Re Hassard and Toronto (1908) 16 O.L.R. 500, at p. 505 (C.A.); Re Clark and Howard (1885) 9 O.R. 576; St. Leonard v. Fournier (1956) 115 C.C.C. 366, 3 D.L.R. (2d) 315 (N.B. C.A.).

5 Re Clay and Victoria (1886) 1 B.C.R. 300.

6 Allard Contractors Ltd. v. Coquitlam (1988) 31 B.C.L.R. (2d) 319 (S.C.), additional reasons to 40 M.P.L.R. 96 (S.C.). See also Rempel Bros. Concrete Ltd. v. Mission (1989) 47 M.P.L.R. 71, 40 B.C.L.R. (2d) 393 (S.C.) (illegal preference to Crown lessee); Rempel Bros. Concrete Ltd. v. Chilliwack (1991) 1 D.M.P.L. 104 (B.C.S.C.) (invalid exempting provision including fee).

7 United Automart Ltd. v. Kamloops [1982] 1 W.W.R. 20, 31 B.C.L.R. 194, 16 M.P.L.R. 178, reversed on other grounds 144 D.L.R. (3d) 566 (C.A.); R. v. Debaji Foods Ltd. (1981) 30 A.R. 143, 124 D.L.R. (3d) 254 (C.A.); Dorman Indust. Ltd. v. North Cowichan (1980) 116 D.L.R. (3d) 358 (B.C. S.C.); Re Clay and Victoria (1886) 1 B.C.R. 300; R. v. Jim Sing (1895) 4 B.C.R. 338.

8 Dhillon v. Richmond (1987) 16 B.C.L.R. (2d) 80 (S.C.).

9 R. v. Russell (1883) 1 B.C.R. 256.

10 R. v. Morris, 56 N.S.R. 1, [1923] 1 D.L.R. 541 (C.A.). See also Long Branch v. Hogle [1948] S.C.R. 557, [1948] 4 D.L.R. 652, varying [1947] O.R. 436, [1947] 3 D.L.R. 428. See also Shillam v. Vernon (1969) 68 W.W.R. 85 (B.C.C.A.).

11 Re Brodie and Bowmanville (1876) 38 U.C.Q.B. 580. See also Robert Hudson Const. Co. v. Acton [1958] O.W.N. 165.

12 Re Weir and R. (1979) 26 O.R. (2d) 326, 51 C.C.C. (2d) 49, 102 D.L.R. (3d) 273 (Div. Ct.); Ohayon v. Mun. Ct. of St-Luc, 33 M.P.L.R. 137, [1986] R.J.Q. 2731 (Que. S.C.) (antismoking by-law); Re Neon Products Ltd. and North York (1974) 5 O.R. (2d) 736, 51 D.L.R. (3d) 488 (C.A.); Re Bunce and Cobourg [1963] 2 O.R. 343 (C.A.); Re Musty's Service Stations Ltd. and Ottawa [1959] O.R. 342, 124 C.C.C. 85, 22 D.L.R. (2d) 311 (C.A.); Re Clark and Howard (1885) 9 O.R. 576.

13 Multi-Malls Inc. v. Ontario (Attorney General), 1974 CarswellOnt 858, 5 O.R. (2d) 248, 50 D.L.R. (3d) 58 (Ont. Div. Ct.).

14 Re Hay and Listowel (1897) 28 O.R. 332, at p. 335.

15 Meldrum v. Black (1916) 22 B.C.R. 574, 10 W.W.R. 519, 34 W.L.R. 314, 27 D.L.R. 193 (B.C.).

16 Carrick v. Point Grey [1927] 2 W.W.R. 684, 38 B.C.R. 481, [1927] 3 D.L.R. 909 (C.A.); Dionne v. Mun. Ct. of Montreal [1956] Que. S.C. 289, 3 D.L.R. (2d) 727.

17 Mississauga H.E.C. v. Mississauga (1975) 13 O.R. (2d) 511, 71 D.L.R. (3d) 475 (D.C.); R. v. Sepanary [1962] O.R. 92, 132 C.C.C. 46, 31 D.L.R. (2d) 91 (C.A.); Nelson v. London [1944] O.W.N. 455, 82 C.C.C. 73, [1944] 3 D.L.R. 604; Re Morrison and Kingston [1938] O.R. 21, [1937] 4 D.L.R. 740 (C.A.).

18 Allard Contractors Ltd. v. Coquitlam (1988) 31 B.C.L.R. (2d) 319, additional reasons to 40 M.P.L.R. 96, 31 B.C.L.R. (2d) 309, reversed on other grounds 61 B.C.L.R. (2d) 299, 85 D.L.R. (4th) 729 (C.A.).

19 R. v. Debaji Foods Ltd. (1981) 30 A.R. 143, 124 D.L.R. (3d) 254 (C.A.).

20 Outremont v. Protestant School Trustees of Outremont [1952] 2 S.C.R. 506.

21 Re Can. Cement Co. and Port Colborne [1949] O.R. 75.

22 London Drugs Ltd. v. Red Deer (1987) 55 Alta. L.R. (2d) 56 (Alta. Q.B.), reversed on the issue of uncertainty [1988] 6 W.W.R. 588 (C.A.).

23 Labatt Brewing Co. v. Winnipeg Tax Collector (1994) 23 M.P.L.R. (2d) 81 (Man.Q.B.).

24 R. v. Top Banada Ltd. (1974) 4 O.R. (2d) 513, 18 C.C.C. (2d) 567, 50 D.L.R. (3d) 209.

25 Uxbridge v. Timbers Bros. Sand & Gravel Co. (1975) 7 O.R. (2d) 484, 55 D.L.R. (3d) 516 (C.A.).

26 356226 B.C. Ltd. v. Vancouver (1993) 15 M.P.L.R. (2d) 183 (B.C. S.C.). See also 22 M.P.L.R. (2d) 187.

27 Can. Safeway Ltd. v. Quesnel (1989) 58 D.L.R. (4th) 487, with additional reasons at p. 500, reversed on other grounds 48 B.C.L.R. (2d) 86 (C.A.).

28 R. v. Varga (1979) 27 O.R. (2d) 274, 12 M.P.L.R. 278, 51 C.C.C. (2d) 558, 106 D.L.R. (3d) 101 (C.A.).

29 Chatham v. Sisters of St. Joseph [1940] O.W.N. 548, [1941] 1 D.L.R. 506 (C.A.).

30 See Re Therrien and Herschel (1974) 4 O.R. (2d) 761, 49 D.L.R. (3d) 209 (C.A.) (severance of invalid clause in zoning by-law allowed); Wilmot v. Kingston [1945] O.R. 531, [1945] 4 D.L.R. 291 (C.A.); Carrick v. Point Grey [1927] 2 W.W.R. 684, 38 B.C.R. 481, [1927] 3 D.L.R. 909 (C.A.); Outremont v. Protestant School Trustees of Outremont [1952] 2 S.C.R. 506.

31 R. v. Russelle [1951] O.W.N. 485 (C.A.); R. v. Grand [1940] O.R. 195, 73 C.C.C. 367, [1940] 2 D.L.R. 549 (C.A.).

32 Re Royal Trust Co. and Ottawa [1963] 2 O.R. 573, at p. 583, 40 D.L.R. (2d) 513 (C.A.); Chatham v. Sisters of St. Joseph [1940] O.W.N. 548, [1941] 1 D.L.R. 506 (C.A.); Wilmot v. Kingston [1945] O.R. 532, [1945] 4 D.L.R. 291 (C.A.); Re Wilmot and Kingston [1946] O.R. 437, at p. 448 (C.A.).

33 Long Branch v. Hogle [1948] S.C.R. 557, [1948] 4 D.L.R. 652. See R.S.O. 1937, c. 266, s. 520, and 1990, c. M.45, s. 320.

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