

Petition to council

Information for Albertans, elected
officials and municipal officers

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Municipal Affairs

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Petition to council: Information for Albertans, elected officials and municipal officers

The contents of this publication are intended to provide general information. Readers should not rely on the contents herein to the exclusion of independent legal advice.

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Introduction

The intent of this document is to identify those areas of the *Municipal Government Act* (MGA) relating to petitions to council, and to supplement and explain the petitioning requirements. **This is not a legal document.** Only a brief summary of the petitioning requirements is provided here, therefore **do not** base your decisions on this summary alone, but instead use in conjunction with the appropriate legislation, including the municipality's petition bylaw.

Appendix A is a listing of the applicable references to petitions with in the MGA. Copies of the MGA and the *Local Authorities Election Act* (LAEA) can be obtained from the Queen's Printer bookstore.

Queen's Printer Bookstore
Suite 700, Park Plaza Building
10611 – 98 Avenue NW
Edmonton AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668
Email: qp@gov.ab.ca
Website: www.qp.alberta.ca

It is also very important that you **contact your municipal office** to obtain a copy of any municipal bylaw to ensure you are meeting the requirements that apply to a petition to the council of your municipality.

This document is only a guide to the legislation. Consult your solicitor for advice on specific situations

Definitions

Bylaw	means a bylaw modifying petition requirements as described in section 26.1 of the MGA.
CAO	means the Chief Administrative Officer of the municipality as defined in section 1 of the MGA.
CEO	means the Chief Elected Official of the municipality as defined in section 1 of the MGA.
Council	means the elected council of a municipality as defined in section 1 of the MGA.
Elector	means a person who is eligible to vote in an election as defined in section 1 of the MGA and sections 1 and 12 of the LAEA.
LAEA	refers to the <i>Local Authorities Election Act</i> , Chapter L-21 of the Statutes of Alberta 2000, and amendments thereto.
MGA	refers to the <i>Municipal Government Act</i> , Chapter M-26 of the Statutes of Alberta 2000, and amendments thereto.
Petition	is a formal request to Council signed by a required number of electors.
Petitioner	is an elector as defined in section 1 of the MGA and sections 1 and 12 of the LAEA who signs a petition.
RSA	Revised Statutes of Alberta.
Summer Village residence	means a parcel of land having at least one building the whole or any part of which was designed or intended for, or is used as, a residence by one person or as a shared residence by 2 or more persons, whether on a permanent, seasonal or occasional basis. For purposes of the definition of “summer village residence”, “building” includes a manufactured home, mobile home, modular home or travel trailer, but does not include a tent.
“The Act or “Act”	refers to the MGA.

Witness

means an adult person who claims that he or she was personally present and saw the signatory sign his or her name on the petition.

Bylaws Modifying Petition Requirements

Section 226.1(1) allows the council of a municipality to pass a bylaw changing certain requirements stated under sections 219 to 226 and section 233(2) of the MGA. A council can now:

- (a) reduce the number of signatures required in section 223(2) of the MGA for petitions to the council;
- (b) allow petitioners to remove their names from petitions to the council by filing a statutory declaration with the CAO within 14 days of the petition being filed.
- (c) provide for petitions to council to be signed electronically and for modification of the requirements in sections 224(2) and (3) and 225(3) of the MGA to the extent the council considers necessary or appropriate for that purpose;
- (d) provide for petitions to be filed with the CAO electronically; and
- (e) extend the time provided in section 233(2) of the MGA for filing petitions with the CAO.

This bylaw cannot be petitioned and must not take effect until 90 days after it is passed.

Protection of Personal Information

Personal information contained in a petition must not be disclosed to anyone except the CAO and the CAO's delegates, and must not be used for any purpose other than validating the petition.

The minimal disclosure that occurs during the collection of signatures is not considered to be a breach of privacy.

Every page of a petition must contain an identical statement outlining the above information.

What is a Petition

A petition, within the context of this document and the MGA, is a formal request to those in authority for an action to be taken.

Who May Petition

Only the electors of a municipality are eligible to be petitioners. See section 222 of the MGA. Please refer to sections 12 and 47(1) of the LAEA to determine eligibility.

The only exception to the above is where the owners of property can petition in regard to local improvements. See sections 392, 393, and 408 of the MGA.

What can be Petitioned

Limitation on Petitions

Section 231(1) prohibits petitions for a vote on proposed planning, development, and road closure bylaws and resolutions even though they are advertised.

Section 232(2) of the MGA prohibits petitions for new bylaws or against existing bylaws or resolutions under Part 8 (Financial Administration), Part 9 (Assessment of Property), Part 10 (Taxation), Part 17 (Planning and Development) and Part 17.2 (Intermunicipal Collaboration). As well, sections 408 and 409 of the MGA prohibit petitions against necessary local sewer improvements and private connections to water and sewer improvements.

Limitations on Time

Petitions for a vote on other bylaws or resolutions that must be advertised, must be submitted to the municipal CAO within a specified time period. A petition to council for a vote of the electors on a proposed bylaw under Part 8 (Financial Administration) is not deemed to be sufficient unless it is filed with the CAO within 15 days of the last date on which the proposed bylaw or resolution is advertised. See section 231(3) of the MGA.

A petition to council for a vote of the electors on a proposed bylaw or resolution that is required to be advertised by another part of the MGA, or another enactment, is not deemed to be sufficient unless it is filed within 60 days of the last date on which it was advertised. See section 231(4) of the MGA.

Number of Petitioners Required

A petition is sufficient if it meets the requirements of sections 22 to 226, or where those requirements are modified by a municipal bylaw under section 226.1 of the MGA.

The minimum number of petitioners required varies in relation to the purpose and nature of the petition, as outlined in the table below.

MGA Section	Purpose of Petition	Population Requirement
Section 232	New bylaw Amend or repeal an existing bylaw or resolution subject to some limitations Public meeting Public vote on an advertised bylaw or resolution (s. 231)	Electors numbering at least 10% of the municipality's population or in the case of a summer village, **electors equal to at least 20% of the number of summer village residences.
Section 392	Local Improvements	Two thirds of the owners who would be liable to pay the local improvement tax and the owners who sign represent at least one half of the value of the assessments for the land on which the tax will be imposed.

Summer village residence is defined at the beginning of this document. The total number of summer village residences can be found on the Municipal Affairs website, on the statistical information page for each summer village.

Elector eligibility is defined in Sections 12, 47 and 48 of the LAEA.

General Requirements

The general requirements for a petition are contained in section 224 of the MGA. Each page of the petition must contain an identical statement of the purpose of the petition. The wording of a petition is very important. It is recommended that legal or professional support be obtained to draft a petition. Witness affidavits must be included with the petition when filed with the CAO. Each page must also contain an identical statement on the protection of personal information.

The petition must include, for each petitioner:

- (a) the printed surname and printed given names or initials of the petitioner,
- (b) the signature of the petitioner,
- (c) the street address of the petitioner (a “Rural Route” or “Post Office Box” address is not sufficient), or the legal description of the land on which the petitioner lives,
 - (c.1) the petitioner’s telephone number or e-mail address, if any, and
- (d) the date on which the petitioner signs the petition.

The signature of an adult witness must be included next to each petitioner’s signature. Each witness must also take an affidavit that, to the best of the witness’s knowledge, the signatures witnessed are those of the persons entitled to sign the petition. A witness should be aware of any requirements modified by a municipal bylaw under section 226.1 of the MGA.

A sample petition format is attached as Appendix D.

Role of a Petition Witness

As a witness to the petitioner’s signature, it is your responsibility to determine that each person signing the petition is eligible to do so.

This requires you to determine, at a minimum, that the petitioner is an eligible voter as described in sections 12, 47 and 48 of the LAEA.

The basic requirements are:

Section 47(1) A person is eligible to vote in an election held pursuant to this Act if the person

- (a) is at least 18 years old,
- (b) is a Canadian Citizen, and
- (c) resides in Alberta and the person's place of residence is located in the area on election day.

Section 12(1)(b) of the LAEA outlines the voter requirements for a resident of a summer village as:

- (a) the person is eligible to vote under section 47 of the LAEA,
- (b) the person is 18, a Canadian citizens and is named on a certificate of title as the person who owns property with the summer village, or
- (c) the person is 18, a Canadian citizen and is the spouse or adult interdependent partner or a person referred to in subclause (ii).

As a witness, you must be present and see the person sign the petition document.

A checklist for the petition witness is attached as Appendix B.

A sample witness affidavit is attached as Appendix E.

Upon completion of the petitioning process, and prior to submission, signed affidavits from each witness, and a signed statement of the Representative of the Petitioners, must be attached to the petition.

A sample statement is attached as Appendix F.

The statement must indicate:

- (a) that the person named in the statement is the representative of the petitioners, and
- (b) that the council may direct any inquiries about the petition to the representative.

Be aware of the time constraints mentioned earlier that a petition must be submitted no later than 15 days after the date of the last advertisement for financial borrowing bylaws and resolutions and no later than 60 days after the date of the last advertisement for other bylaws and resolutions. Also note that petitioners cannot sign the petition more than 60 days before the petition is filed.

A final checklist for the representative of the petitioners is attached as Appendix C.

Determining Sufficiency

A petition to council is filed with the CAO of the municipality, who is responsible for determining the sufficiency of the petition in accordance with section 225 of the MGA.

Names cannot be added or removed from a petition once it has been filed with the CAO unless council has passed a bylaw under section 226.1 allowing it. See section 225(2) of the MGA.

The CAO must not count any names that do not comply with the requirements for a petition. These include:

- (a) a signature that is not witnessed,
- (b) a signature on a page that does not have the same purpose statement that is on all other pages,
- (c) a petitioner whose printed name is not included or is incorrect,
- (d) a petitioner whose street address or legal description of land is not included or is incorrect,
- (e) if the date of signing is not included,
- (f) when a petition is restricted to certain persons,
 - (i) who is not one of those persons, or
 - (ii) whose qualifications as one of those persons is not, or is incorrectly, described or set out, or
- (g) who signed the petition more than 60 days before the date on which the petition is filed with the CAO, unless a bylaw under section 226.1(1)(e) of the MGA provides otherwise.

See section 225 of the MGA for complete listing.

Section 226.2(3) also requires that each page of the petition contain an identical protection of personal information statement.

Within 45 days of the date when the petition has been filed, the CAO must make a declaration as to whether or not the petition is sufficient. See sections 226 and 226.1 of the MGA.

Response to a Sufficient Petition

The action requested in a petition directed to the local council requires a response. The response time or action varies with the nature and subject matter.

Two specific examples are:

- a) Council receives a petition under section 231 of the MGA for a vote on an advertised proposed bylaw.

Action: Council must decide not to proceed with the bylaw or must submit the bylaw to a vote of the electors within 90 days after the CAO declares the petition sufficient. If Council submits the bylaw to a vote of the electors, and the vote does not approve the bylaw, all previous readings of the bylaw are rescinded and council cannot give the bylaw any more readings. Council must proceed to pass the bylaw if it is approved by a vote of the electors.

- b) Council receives a petition under section 232 of the MGA for a new bylaw, an amendment or repeal of a bylaw or resolution on a matter that is within the jurisdiction of council. A petition under section 232 of the MGA is not sufficient unless it filed with the CAO within 60 days after the day on which that bylaw or resolution was passed or, where a bylaw under section 226.1(1)(a) extends that period, within the extended period.

Action: Council must, within 30 days of the CAO declaring the petition to be sufficient, give first reading to the bylaw. Council then has the option of passing the bylaw within 30 days of the date of the first reading, or putting the bylaw to a vote of the electors within 90 days of the date of first reading. Council is bound by the results of a vote of the electors.

Public Vote Bylaws

Council is bound by the results of the vote of the electors under sections 233 and 234 of the MGA. Section 234 of the MGA also outlines the time periods that must be adhered to when petitioning on bylaws that were previously subjected to a public vote.

Section 239 of the MGA states that a council may refuse to receive petitions on the same or similar subject for a period of one year following a vote of the electors.

Delay of a Vote of the Electors

Section 238 of the MGA states that if a valid petition requiring a vote of the electors is received within 12 months before a general election, council may delay the vote to coincide with the general election.

Clean Energy Improvements

Ratepayers can petition for a municipality to pass a clean energy improvement tax bylaw, or amend or repeal an existing bylaw under section 390.8 of the MGA. Petitions for these improvements must meet the criteria set out in section 224 of the MGA to be sufficient, unless the municipality has passed a bylaw modifying the requirements under section 226.(1). See sections 390.1 through 390.9 for further information.

Petitions for Local Improvements

Ratepayers can petition for local improvements under section 393 of the MGA. Petitions for local improvements must meet the criteria set out in section 392 of the MGA to be sufficient. In addition to meeting the general rules for petitions, a local improvement petition must:

- (a) be signed by two thirds of the owners who would be liable to pay the local improvement; and
- (b) represent at least half of the assessed value of the parcels against which the local improvement is to be applied.

Council can, under section 408 of the MGA, impose a local improvement for a sewer if council considers it to be in the public interest and the construction is recommended by a health officer. There is no right to petition against the local improvement in this instance.

Section 409 of the MGA also allows council to assess the cost of constructing private connections for local improvements against the properties involved without the right of petition.

Additional Information

If you have further questions after reading the applicable sections of the MGA and the LAEA, and reviewing this handout, please contact the Municipal Capacity and Sustainability Branch of Alberta Municipal Affairs at 780-427-2225, toll-free in Alberta by dialing 310-0000 first.

Appendices

Appendix A – References to Petitions

Identification of the pertinent sections of the *Municipal Government Act* in regard to petitions.

219	rules and scope of petitions
221	sufficiency requirements for a petition
222	who can petition
223	the normal number of petitioners required
224	requirements for petition statement, signatures and documents
225	counting petitioners to determine sufficiency
226	reporting on the sufficiency of a petition
226.1	bylaws modifying petition requirements
226.2	protection of personal information in petitions
229	petition council to hold a public meeting
231	petition for a vote on an advertised bylaw or resolution
232	petition for a new bylaw, or to amend or repeal a bylaw or resolution
233	council's duty on receiving a valid petition
234	petitions respecting "public vote bylaws"
235	council requirement to comply with a vote on a question
238	criteria to delay a vote of electors to a general election
239	time limitations on petitions dealing with the same or a similar subject
240	minimum times for changes to public vote bylaws
390.8	Petitions regarding clean energy improvement taxes
392	petition rules modified for petitions for local improvements
393	owners can petition for local improvements
408	prohibition against petitioning against a local improvement or sewers in special circumstances
409	prohibition against petitioning against the cost of connections to a local improvement
606	inclusion of an outline of the petitioning procedures in the advertising requirements for a bylaw or resolution

Appendix B – Witness Check List

Prior to Collecting Signatures

- Read the relevant sections of the *Municipal Government Act* and the *Local Authorities Election Act*.
- Ensure you have read and understand the Witness Affidavit prior to collecting any signatures. (Appendix E)

During the Collection of Signatures

- Ensure each petitioner signature that you witness is an eligible elector of the municipality by asking if they are:
 - A Canadian citizen, over 18 years of age, and a resident of the municipality, **and in the case of a summer village, an owner of the property.**
- Ensure you personally see the petitioner complete the petition document.

After Collecting Signatures

- Ensure you complete the Witness Affidavit (Appendix E), and that it is properly signed by a Commissioner for Oaths.

Appendix C – Representative of Petitioners Check List

- Read the relevant sections of the *Municipal Government Act* and the *Local Authorities Election Act*. Ensure you are aware of any municipal bylaw regarding petition requirements.
- Be aware of the number of signatures required for the type of petition you are presenting.
- Ensure the Witnesses are aware of their responsibility.

When a petition is received by the CAO, it **must** include:

- Each page of the petition must contain an identical statement of the purpose of the petition (Appendix D).
- Each page of the petition must contain an identical statement of the protection of personal information on petitions (Appendix D).
- A completed Witness Affidavit for each witness (Appendix E), properly signed by a Commissioner for Oaths.
- A signed and dated Statement of Representative Petitioners (Appendix F).

The personal information contained in this petition will not be disclosed to anyone except the chief administrative officer and the chief administrative officer's delegates, and will not be used for any purpose other than validating the petition.

Appendix D – Petition by Electors

Page _____

(pursuant to the *Municipal Government Act* and amendments thereto)

To: The Council of the (type of municipality) of (name of municipality), in the Province of Alberta.

The undersigned persons, being electors of the (type of municipality) of (name of municipality), in the Province of Alberta, hereby petition the council of (name of municipality) for/to:

Accurately state purpose and objectives of Petition in this space.

EACH PETITIONER, by signing this petition, certifies that he (or she) is an elector of the (type of municipality) of (name of municipality).

Signature of Petitioner	Printed Name	Street Address or Legal Land Description	Phone Number	Email Address	I am an elector of this municipality	Date	Signature of Adult Witness
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		
					<input type="checkbox"/> Yes <input type="checkbox"/> No		

NOTES:

1. This form is a suggested form only and is prepared by Alberta Municipal Affairs for the information and convenience of interested individuals. It has no legislative effect. For certainty, **legal advice should be sought when a petition is being considered.**
2. Each page of the petition shall contain accurate and identical statements of the purpose and objectives and on personal information privacy.
3. In the absence of a street address, specify the legal description of the property on which the petitioner resides.
4. **Each petitioner shall indicate that they are an eligible elector of the municipality by checking this field.** A Canadian citizen, over 18 years of age, and a resident of the municipality. (See Sections 12, 47 and 48 of the *Local Authorities Election Act* for further information.)
 - b) Each person witnessing a signature on the petition is required to sign an Affidavit that to the best of their belief, the persons whose signatures they witnessed are electors of the municipality. See Appendix E

Appendix E – Witness Affidavit

AFFIDAVIT

I, (name), pursuant to the *Municipal Government Act* and amendments thereto, of the (type of municipality) of (name of municipality), in the Province of Alberta, MAKE OATH AND SAY:

1. THAT I was personally present and did witness those signatures on the attached petition where I have signed my name as an adult person.
2. THAT to the best of my knowledge the persons whose signatures I have witnessed on this petition are electors of the (name of municipality).
 - a. An eligible elector, at a minimum, is a Canadian citizen, over 18 years of age, and a resident of the municipality. (See Sections 12, 47 and 48 of the *Local Authorities Election Act* for further information.)
 - b. I personally observed each person complete the petition document.

SWORN (or affirmed) before me at _____)
_____)
in the Province of Alberta, _____)
_____)
this _____ day of _____) _____
(Signature of person who
witnessed signatures on the
petition)
20_____. _____)
_____)
_____)

A Commissioner for Oaths/Notary Public
in and for the Province of Alberta

*(PRINT OR STAMP NAME HERE)

MY APPOINTMENT EXPIRES _____

*(Must be legibly printed or stamped).

The personal information contained in this petition will not be disclosed to anyone except the chief administrative officer and the chief administrative officer's delegates, and will not be used for any purpose other than validating the petition.

Appendix F – Statement of Representative of Petitioners

Statement of Representative of Petitioners

(pursuant to the *Municipal Government Act* and amendments thereto)

I, (name), of (current address including postal code) in the (type of municipality) of (name of municipality), in the Province of Alberta, state that I represent the petitioners and am the person to whom the municipal council may direct any inquiries with regard to the petition. I may be contacted by phone at _____ or email at _____.

DATED at the _____ of _____, in the Province of Alberta, this _____ day of _____, 20_____.

Witness

Signature of Representative

(Printed Name)

Note: Use this as the last page of a Petition.