



PETITIONS

An Information Handout on Petitions for
use by the General Public,
Elected Officials and Municipal Officers

Alberta Municipal Affairs and Housing (2004) *Petitions - An Information Handout on Petitions for use by the General Public, Elected Officials and Municipal Officers*
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For more information contact:

Municipal Advisory Services
Local Government Services
Alberta Municipal Affairs and Housing
17th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta T5J 4L4
CANADA

Telephone: 1 (780) 427 2225

Toll Free: 310 0000 (in Alberta only)

Fax: 1 (780) 420 1016

Website: www.municipalaffairs.gov.ab.ca

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1. Introduction

This is not a legal document. It is only a brief summary of the petitioning requirements. **Do not** base your decisions on this summary alone, but use it in conjunction with the appropriate legislation. The intent of this document is to identify those areas of the act relating to petitions, and to supplement and explain specific sections or applications of the *Municipal Government Act (MGA)*.

Appendix A is a listing of the applicable references to petitions within the *MGA*. You are urged to obtain an office consolidation of the *MGA*, including amendments, prior to initiating a petition. Copies can be obtained from the Queen's Printer bookstore.

Queen's Printer Bookstore
Main Floor Park Plaza Building
10611 – 98 Avenue
Edmonton, Alberta T5K 2P7
Phone: (780) 427-4952
Fax: (780) 452-0668

For a legal opinion, please consult your solicitor.

2. Definitions

CAO	means the Chief Administrative Officer of the municipality as defined in section 1 of the <i>Municipal Government Act (MGA)</i> .
CEO	means the Chief Elected Official of the municipality as defined in section 1 of the <i>MGA</i> .
Council	means the elected council of a municipality as defined in section 1 of the <i>MGA</i> .
Elector	means a person who is eligible to vote in an election as defined in section 1 of the <i>MGA</i> and section 1 of the <i>Local Authorities Election Act (LAEA)</i> .
Minister	means the Minister of Municipal Affairs and Housing.
<i>MGA</i>	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 the Minister or Council signed by a number of electors.
Petitioner	is an elector as defined in section 1 of the <i>MGA</i> and section 1 of the <i>LAEA</i> who signs a petition.
RSA	Revised Statutes of Alberta.
“The Act” or “Act”	refers to the <i>Municipal Government Act (MGA)</i> .
Witness	means an adult person who claims that he or she was personally present and saw the signatory sign his or her name.

3. 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.

4. Who May Petition

Only the electors of a municipality are eligible to be petitioners for most purposes, see section 222 of the *MGA*.

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 Act.

5. Who Can Be Petitioned

Electors can petition the Minister or the locally elected council, depending on what action the petitioners want and who has the authority to act on the matter.

6. What Can Be Petitioned

The *MGA* provides for petitions to the Minister on certain specific matters (see appendix A).

More importantly, section 232(1) of the *MGA* states that electors may petition for a new bylaw or to amend or repeal an existing bylaw, resolution on any matter within the jurisdiction of the council under the *MGA* or any other enactment. (subject to some limitations).

6.1 Limitations 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. 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, under section 231(3). This time period is 15 days after the date of the last advertisement for Part 8 (Financial Administration) bylaws and resolutions. Under section 231(4), this time period is 60 days after the date of the last advertisement for other bylaws and resolutions.

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

7. Number of Petitioners Required

The minimum number of petitioners required is substantial, but the specific number varies in relation to the purpose and nature of the petition. The minimum number of petitioners required for specific types of petitions are contained in sections 85, 130, 223, 392 and 572 of the Act.

8. General Requirements

The general requirements for a petition are contained in section 224 of the Act. This section should be reviewed very carefully.

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,
- (d) the date on which the petitioner signs the petition, and
- (e) the signature of an adult witness opposite the signature of the petitioner.

Attached, as Appendix B, is a sample petition format. The format must be adapted to accommodate petitions to the Minister, or petitions involving local improvements.

Note that 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 assistance be obtained to draft a petition.

Each witness must also take an affidavit that, to the best of the person's knowledge, the signatures witnessed are those of the persons entitled to sign the petition. A sample format is attached as appendix B(1).

Upon completion of the petitioning process, and prior to submission, a signed statement must be attached to the petition. A sample format, is attached as appendix B(2). The statement must state:

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

8.1 Determining Sufficiency

The petition is filed with the CAO, 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. See section 225(2) of the *MGA*.

The CAO must not count any names that do not comply with the requirements for a petition. In addition, the names of any petitioners who signed the petition more than 60 days prior to the date the petition was filed with the CAO cannot be counted. See section 225(3) of the *MGA*.

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

8.2 Report on Sufficiency

Within 30 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 section 226 of the *MGA*.

8.3 Response to a Valid Petition

The actions requested in a valid petition directed to the Minister are generally discretionary and are at the option of the Minister.

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

Two specific examples are:

- (a) a petition for a vote of the electors on an advertised proposed bylaw under section 231 of the *MGA*. A sufficient petition has been received requiring the bylaw to be decided by a vote of the electors.

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

- (b) Council receives a valid petition for a new bylaw on a matter that is within the jurisdiction of council under section 232 of the *MGA*.

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.

9. Public Vote Bylaws

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

10. 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 prior to a general election, Council can delay the vote to coincide with the general election.

11. Moratorium on Petitioning on a Similar Subject Matter

Section 239 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.

12. Petitions for Local Improvements

Ratepayers can petition for local improvements under section 393. Petitions for local improvements must meet the criteria set out in section 392 to be sufficient, in addition to meeting the general rules for petitions in 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, 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 also allows council to assess the cost of constructing private connections for local improvements against the properties involved without the right of petition.

13. Advertising Requirements

The general requirements for advertising a proposed bylaw or resolution are contained in section 606 of the Act.

14. Additional Information

If you still have questions after reading the applicable sections of the *MGA*, and reviewing this handout, please contact the Municipal Services Branch of Alberta Municipal Affairs and Housing at (780) 427-2225.

REFERENCES TO PETITIONS – MGA

Identification of the pertinent sections of the *Municipal Government Act (MGA)* in regard to petitions

- *85 - petition to the Minister to form a municipality
- *93 - petition to the Minister to change the status of a municipality
- *130 - petition to the Minister to undertake a dissolution study
- 219 - rules and scope of petitions
- 220 - Minister to designate a person to act as CAO when he/she receives a petition
- 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
- 229 - petitioning council to hold a public meeting
- 231 - petition for a vote on an advertised bylaw or resolution
- 232 - petitioning 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 required 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
- *282 - petition to the Minister to appoint an auditor to audit the books of a municipality
- 392 - petitioning rules modified for petitions for local improvements
- 393 - owners can petition for local improvements
- 408 - prohibition against petitioning against a local improvement for sewers in special circumstances
- 409 - prohibition against petitioning against the cost of connections to a local improvement
- *572 - petition to the Minister for an inquiry into the affairs of a municipality
- 606 - inclusion of an outline of the petitioning procedures in the advertising requirements for a bylaw or resolution

*Refers to petitions to the Minister

(1) PETITION BY ELECTORS Page _____

(pursuant to the *Municipal Government Act* and amendment's thereto)

To: The Council of the (village, town, etc.) of (name of municipality), in the Province of Alberta.

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

(2) 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 _____ of _____.

<u>Signature of Petitioner</u>	<u>Printed Name</u>	<u>(3) Street Address or Legal Description of Land</u>	<u>Date</u>	<u>(4) Signature of Adult Witness</u>

NOTES:

1. This form is a suggested form only and is prepared by Alberta Municipal Affairs and Housing 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 an accurate and identical statement of the purpose and objectives of the petition. As the wording of the petition is critical, legal advice should be obtained.
3. In the absence of a municipal address, specify the legal description of the property on which the petitioner resides.
4. 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 B(1).

AFFIDAVIT

I, _____, pursuant to the *Municipal Government Act* and amendments thereto, of the _____ of _____, 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

SWORN (or affirmed) before me at _____)
)
)
in the Province of Alberta,)
)
this _____ day of)
)
20 _____.)
)
)
)
)

(Signature of person who witnessed signatures on the petition)

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).

STATEMENT OF REPRESENTATIVE OF PETITIONERS

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

I, _____, of the _____ of _____, in the Province of Alberta, state that I am one of the petitioners whose name appears on the petition hereto attached and that I represent the petitioners and am the person to whom the municipality my direct any inquiries with regard to the petition.

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

Witness

Signature of Representative

(Printed Name)

(Address)

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