

A CITIZEN'S GUIDE TO SHAPING COUNCIL DECISIONS



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Introduction

The Municipalities Act is the legislation setting out the framework within which municipalities, other than cities or northern municipalities must use to govern themselves while reaching decisions which affect property owners and residents. Saskatchewan cities function under *The Cities Act* which closely parallels *The Municipalities Act*. These statutes confer responsibility to municipalities to encourage and enable public participation in the governance process.

This document is intended to help citizens explore and understand the options available to those who want to be involved in the municipal governance process. For instance, you may want council to change an existing policy or adopt a new policy regarding a public matter.

NOTE: *The information in this document is not a substitute for legislation. It is important to examine the exact wording of legislative references. Questions of a legal nature should be directed to a solicitor.*

Executive Summary

Your Municipality

Municipalities are created by provincial legislation and are recognized as a responsible and accountable level of government within their jurisdiction. The jurisdiction includes most issues which impact citizens and ratepayers including but not limited to, waste collection and disposal, land use policy and property taxation policies. Municipalities have autonomy or the ability to act according to their own direction regarding the majority of matters within their jurisdiction. Very few bylaws or policies require provincial approval. Municipal councils and the individual members of council are accountable to the people who elect them.

Through its decisions and policies your municipal council will provide services, facilities and other things that, in its opinion, are necessary or desirable for all or part of the municipality. If you feel your council should consider or change a particular policy or decision there are steps you can take in an effort to bring about change.

Citizens' Role

Encouraging municipal accountability by citizens and ratepayers falls into three categories. Initially, you may build political support at the local level to persuade council to change or adopt a policy or bylaw. You could begin this process by opening lines of communication with council, speaking with individual members of council to lobby for support or perhaps addressing council at one of its meetings. You may discuss your views with other citizens to determine the level of support which exists for your proposal, contrasting that to the support

that exists for council's position. The public accountability provisions in legislation provide you with rights:

- to observe council meetings;
- to access municipal documents; and
- to petition council.

Members of council are elected for a four-year fixed term of office. If you are not satisfied with the position taken by a member of council on a public issue you have the right to vote for an alternate candidate or to seek office yourself. There is no ability to recall or "unelect" a member of council prior to the expiration of his or her term of office although there are situations where a judge might order the office of an elected member to be vacated.

A final option by which you may hold council accountable is to initiate a legal action through the courts in an effort to remove a disqualified person from office, to overturn bylaws or policies or to resolve potential liabilities. There may be matters for which a municipality cannot be sued. This option should be considered only as a last resort and after obtaining legal advice.

More detailed information is contained within this document.

Definitions

1. "Act" means *The Municipalities Act* and unless otherwise indicated, *The Cities Act*
2. "Administrator" means the person appointed to the office of Administrator (for ease of reference only in this document it also refers to City Clerk, Village Clerk and other similar persons)
3. "CA" means *The Cities Act*
4. "Council" means the duly elected council of the municipality
5. "Elected official" means a person who has been elected to council including mayors, Reeves, councillors and aldermen. They may also be referred to as "member of council" or simply "member"
6. "LGEA" means *The Local Government Election Act*
7. "MA" means *The Municipalities Act*
8. "Ministry" means the Ministry of Government Relations
9. "Municipality" means rural and urban municipalities including cities, towns, villages and resort villages
10. "Plebiscite" means a vote of electors to provide council with non-binding direction
11. "Referendum" means a vote of electors to provide council with binding direction
12. "Statutory" means enacted, regulated or authorized by legislation or regulation

Municipal Initiatives / Responsibilities

Role of Elected Officials

Elected officials are responsible for developing public policy and for making decisions affecting the day-to-day affairs of their municipality.

Members of council have a duty to represent the public and to consider the well-being and interests of the municipality.¹

Public participation initiatives

Legislation, for the most part, does not describe how a municipality is to encourage and enable public participation in the governance process. It is up to council to determine how it might engage the public during the development of public policy. These initiatives might include public meetings, surveys or simply talking to electors. The activities might be more formal such as plebiscites and referendums.

Municipalities are required to formally advise the public of their intention to consider certain matters.² Some but not all, of the matters for which notice must be provided include:

- borrowing money;
- selling or leasing land for less than fair market value unless there was a public offering; and
- setting the remuneration payable to members of council.

The municipality's *Public Notice Bylaw* lays out the minimum notice requirements and method by which the public will be informed of impending action. Unless a longer time is specified, public notice must be given at least seven days before the council meeting at which the matter will be discussed. The document [Public Notice Obligations](#) is available on the ministry's website and³ outlines those matters for which public notice must be provided by municipalities other than cities.

Public notice does not mean that citizens are automatically able to provide input regarding the proposed agenda item. For some issues such as permanent road closures⁴ or zoning bylaw amendments⁵, there may be a statutory opportunity to address council. You should contact the municipal administrator if you want to formally address council at an upcoming meeting as there may be municipal procedures or policies to place business items on council's agenda.⁶

Accountability to Electors

Municipalities are recognized by legislation as a level of government within their jurisdiction and as being accountable to the people who elect them.⁷ Citizens may hold their municipal government accountable through three different mechanisms:

- political pressure;

¹ Section 92 MA; Section 65 CA

² Section 128 MA; Section 102 CA

³ www.municipal.gov.sk.ca

⁴ Subsection 13(5) MA; Subsection 13(3) CA

⁵ Subsection 207(2), *The Planning and Development Act, 2007*

⁶ Section 81 MA; Section 55 CA

⁷ Section 3 MA; Section 3 CA

- electoral process; and/or
- legal action.

Political pressure

Decisions by government at any level, including municipalities, are by their very nature, political. There is generally more than one side or one view with respect to most matters addressed by council. Members of council will often consider matters in the face of competing, and even sometimes conflicting interests. Municipalities will typically search for solutions where all or at least the majority of interests can be satisfied; however, there will be instances where this may be unattainable.

In situations where you feel the municipality failed to take certain views into sufficient consideration prior to making a decision, you may attempt to persuade one or more members of council to reconsider the matter. You may lobby individual members of council by discussing the matter with them informally, or request attendance at an upcoming council or council committee meeting to discuss the matter more formally.

Building political pressure may also include activities designed to gauge the level of support from other citizens. These activities include discussing the matter with other citizens, encouraging them to talk to members of council, or writing letters to the editor of local newspapers.

Building political pressure is, in essence, undertaking activities at the local level to elevate the consideration of a specific point of view with respect to a matter where there may be competing interests.

Electoral process

Elected officials hold office with the approval of their citizens and ratepayers.

- If you are an elector in an urban municipality, you have an opportunity every four years to elect members of council, including the mayor.
- If you are a voter in a rural municipality, you vote for your division councillor and your reeve every four years.
 - Elections for reeve are held in 2012, and every four years thereafter.
 - Elections for members of council representing an odd-numbered division are held in 2012, and every four years thereafter.
 - Elections for members of council representing an even-numbered division are held in 2014, and every four years thereafter.

The ministry's website contains information regarding election dates and qualifications of electors and candidates.⁸

⁸ www.municipal.gov.sk.ca

You have the opportunity to effect electoral change, either by supporting a candidate or seeking office yourself.

Legal challenge

In situations where the municipality has allegedly acted contrary to the Act or other legislation, citizens may influence municipal policy through the courts. This may involve quashing (also called overturning) a bylaw or a resolution of council. This option should be considered only when all other alternatives have been exhausted and after consulting legal counsel.

Citizen Initiatives

An effective method of affecting municipal policy, from a cost standpoint as well as achieving results, may be the citizens' ability to influence public opinion.

In order to address concerns regarding municipal decisions, you may need:

- courage;
- persistence;
- persuasive skills; and
- time.

It is one thing to discuss municipal matters at "coffee row" where the consensus is "somebody" should do "something." It takes courage to be that "somebody" to come up with "something," which may then be critiqued by others in the community. Persistence and your ability to persuade others will enable you, either alone or with others, to overcome possible resistance to proposed changes. This persistence, however, should not overshadow recognition that there may be little public support for alternative proposals. You should be prepared to further recognize that it may take some time to achieve your goal of building political support for a proposed policy.

To build public opinion or raise awareness of an issue, you are encouraged to consider the following strategies:

- become informed;
- research the issue;
- meet with council;
- facilitate a public meeting of electors;
- promote a plebiscite; and
- request a referendum.

Become Informed

Municipal issues can rarely be classified as "black and white" topics. There may often be competing interests for scarce resources. For example, a municipality may choose to devote

fewer resources to recreation programs in favour of providing more funds to the fire department. Citizens may generally agree that the fire department may need more funding. Others may suggest that these additional funds should be redirected from other activities, such as economic development initiatives, rather than recreation. Yet others might suggest that a modest tax increase is the appropriate response.

To become informed of the various aspects of municipal affairs, you are encouraged to exercise your right to attend council meetings to observe your members of council debate municipal issues.⁹ Information can be obtained by requesting or viewing public documents such as meeting minutes and financial statements.¹⁰ Copies of these documents may be obtained from the municipal office at a reasonable cost, which is established by council.

Research the Issue

As noted above, competing interests are not uncommon when discussing municipal matters, such as the type and quantity of municipal services or facilities.

If you want to know why council acted on an issue in a particular way, ask the administrator. This discussion should focus on the technical aspects, such as:

- factors considered;
- all options examined by council,;
- the expected outcomes; and
- possible implications of council's direction.

Administrators do not have voting privileges on questions coming before council, nor do they have responsibility to defend or rationalize a council's decision. Their role is to explain the decision. The advice or recommendations provided by the municipal administrator or other employees to council is considered to be information which may not be accessible by the public.¹¹ Your discussion should be limited to the "what" of the matter.

The question of "why" should be directed to members of council. The member should be able to explain why they felt the selected option was superior to others. While you might not be swayed to the member's position, you should come away with a sense of why that member of council thought the public interest was served.

Determine the public interest

Citizens may identify the public interest regarding a matter by discussing it with others in the community, including stakeholders who may be impacted both positively and adversely by council's decision. Sending letters to the editor of the local newspaper may be another way to create awareness and promote discussion regarding the decision.

⁹ Section 120 MA; Section 94 CA

¹⁰ Section 117 MA; Section 91 CA

¹¹ Section 16, *The Local Authority Freedom of Information and Protection of Privacy Act*

It is important to keep an open mind during these discussions with others. Some people may support council's decision, and if you find there is a significant level of support for council's position, it may be more difficult for you to convince council to change the policy.

Explore options / develop alternatives

Part of a citizen's research should include exploring options or alternatives. The discussions with the administrator and/or members of council may identify alternative options which were set aside for a variety of reasons. It may be beneficial to council and the community in general to identify choices which may enjoy greater public support.

These new options or alternatives may be identified through discussions with the administrator, members of council, or other citizens. Using the Internet or other media to examine how other municipalities have dealt with similar situations may result in solutions which council might not have considered.

Proposing choices or options may enhance your efforts to influence council's policies.

Meet With Council

Talking with individual council members at the local restaurant, skating rink, or other places is not the same as meeting with council. Municipal decisions are made collectively by members of council at a council meeting. Citizens desiring to influence policy should be prepared to attend a council meeting to address all members of council at one time.

Getting on the agenda

Contact the administrator to identify the municipality's requirements to be placed on the agenda to meet with council. The municipality may have enacted a council procedures bylaw which will lay out these rules, or they may have unwritten practices which have evolved over the years. These rules or practices may address some or all of the following:

- a deadline by which a request to be placed on the agenda must be filed with the administrator;
- the requirement for a written summary of the major items being addressed in the presentation to council; or
- a time limit to present the matter to council.

Prepare for the meeting

Proper preparation for the meeting with council will enhance, but not guarantee, the success of your presentation. You should ensure that you are fully knowledgeable regarding the matter at hand. Consider the following points:

- Clearly identify the issue. If there are other non-relevant matters which you wish to address, it may be beneficial to deal with those at another time. Including too many items at one time may minimize action on any of the items;
- Outline the research procedures and outcomes. Withholding the identity of those persons with whom you have discussed the issue may cast doubt on the credibility of the results of those discussions. Include the source of external data to enable others to compare the current situation with the other situations you have identified;
- Propose alternatives to council. It should be presumed that council carefully considered the matter and made its decision based on a long-term benefit to the municipality. Proposing constructive alternative ideas may be viewed positively by council, particularly in those circumstances where action should be taken by council and where the status quo is not a publicly acceptable option;
- Rationalize the alternatives. Just as members of council should be prepared to provide reasoning for their decisions, be prepared to provide reasons for your suggestions. You may wish to constructively offer reasons why council's position may not be the best option;
- Be prepared to answer questions. The presentation, and the written summary if one was provided, may not have adequately addressed all of the considerations associated with the issue; and
- Be aware there may be resistance to new proposals. Try to keep the discussion focussed on the matter at hand.

At the meeting

The delegation to the council meeting may be comprised of one citizen or a group of citizens. Where there are multiple attendees, it is important that a single person is designated as the spokesperson for the group. Among other things, there are two important considerations which the group may wish to think about when determining its spokesperson.

- Does the person have good speaking skills? If not, the presentation may drift from its main intention, or the speaker may be unable to maintain council's focus on the issue.
- Does the person have a poor social or business relationship with one or more members of council? If so, these biases may emerge during the discussion and may compromise the merits of the points being raised.

Citizens attending the meeting, but not actively participating in the presentation, should refrain from cheering, applauding, or other such actions. These actions may detract from the merits of the views being expressed to council, generating unwarranted resistance. The attendance of supporters should by itself clearly demonstrate there is support for alternative actions.

Following the presentation, members of council may pose a question to which the spokesperson may not be the best respondent. In this case, you should ask council's approval to defer the question to one of the other citizen delegates.

When the presentation and questions have concluded, your status will shift from a delegate to an observer. You are entitled to observe council's deliberations with certain exceptions.¹² Your attendance, however, is on the condition that you do not disrupt members' debate.¹³ Consider the effect your continued presence may have on those deliberations. While some councillors may be comfortable debating publicly, many have difficulty with this aspect of their role.

In some specific instances council can close a meeting to the public. If this should occur, you may be asked to leave the council chambers; however, you are entitled to return when council reconvenes the open meeting following those confidential discussions. Council may then pass a motion regarding the issue. Alternatively, there may be no resolution, signifying that council intends to take no immediate action regarding the matter.

Following the meeting

In the days following the meeting, the municipality may provide you with written confirmation on the outcome of the meeting with council. A written response signifies conclusion of this phase of citizen involvement and ensures that all parties are aware of council's decision. You may wish to clarify your expectation of a written follow-up either during the presentation to council or afterwards with the administrator.

Public Meeting of Voters

A public meeting of voters is not the same as a meeting of council. This public meeting is typically convened to discuss a specific matter and serves to create awareness and build community understanding of the topic.

The outcome of this meeting is not binding on council – it will simply provide council with an opinion poll of those who attended, and possibly a recommended course of action. The final decision regarding the matter resides with council.

Public meetings may be initiated by council¹⁴ or they may arise from a petition.

- For information regarding a petition for a public meeting, please refer to [Appendix "A"](#).
- For information regarding conducting a public meeting, please refer to [Appendix "B"](#).

If you feel a public meeting of voters is warranted consider the question of timing.

- A public meeting of voters held prior to meeting with council as a delegation provides council with community input.

¹² Section 120 MA; Section 94 CA

¹³ Subsection 119(3) MA; Subsection 93(3) CA

¹⁴ Subsection 129(1) MA

- Calling for a public meeting following the meeting with council as a delegation is a strategy that could be used to compel council to reconsider a matter if you were initially unsuccessful.

Plebiscites and Referendums

Plebiscites and referendums are forms of direct democracy where the voters of a municipality are entitled to vote to signify their acceptance or rejection of particular proposals. Voting on bylaws, resolutions and questions must be conducted in accordance with *The Local Government Election Act*.¹⁵

Promote a plebiscite

Plebiscites may be initiated only by council.¹⁶ Council may respond to formal or informal requests to hold a plebiscite regarding a proposed policy. A petition cannot compel council to move forward with a plebiscite. The outcome of a plebiscite does not bind council to a course of action.

Request a referendum

Referenda may only be initiated by council or the council may be obligated to hold a referendum as the result of a petition of voters.¹⁷ There are prescribed technical requirements for these petitions.

The outcome of a referendum is binding on council if the voters approve the measure. On the other hand if the majority of persons voting do not approve the proposed resolution or bylaw council may exercise its discretionary authority to pass the proposed resolution or bylaw if it wishes to do so.¹⁸

In those situations where a municipality is required to pass a bylaw or resolution – that is to say, where the referendum result approves the proposed bylaw or resolution – the municipality’s ability to amend or repeal the bylaw or resolution is limited. The municipality may proceed with this action if any of the following conditions are met:

- The electors approve the proposed amendment or repeal of a bylaw or resolution through a plebiscite or a referendum;
- Amendment or repeal is necessary to avert an imminent danger to the health or safety of the residents of the municipality; or
- The bylaw or resolution to be amended or repealed has been in place for at least three years and the council provides a minimum of 21 days public notice of its intention to amend or repeal the bylaw or resolution.

If the amendment is non-substantive, the above conditions may not apply.

¹⁵ Part V applies to referendums in urban municipalities; Part VIII Division 9 applies to those in rural municipalities

¹⁶ Section 130 MA; Section 104 CA

¹⁷ Sections 131 & 132 MA; Sections 105 & 106 CA

¹⁸ Section 137 MA; 111 CA

Petition for referendum

The subject matter of a petition to conduct a referendum must address matters within the jurisdiction of council pursuant *The Municipalities Act* or *The Cities Act*. A petition to conduct a referendum cannot address matters enabled by other legislation such as *The Local Improvements Act, 1993*, or *The Planning and Development Act, 2007*.

The subject matter cannot involve the adoption of an operating budget or a capital budget or the authorization of the municipal tax levy.¹⁹ For example, a referendum regarding upgrades to the water treatment plant may be considered as part of the capital budget, and therefore, beyond the reach of a referendum petition; whereas citizens might petition for a referendum to pass a new bylaw respecting management of the waterworks system.

Technical requirements

Only persons who are eligible to vote within the municipality are qualified to sign petitions requesting a referendum. The minimum number of petitioners required for a valid petition is:²⁰

- in cities, electors representing at least 10 per cent of the population; and
- in other municipalities, the greater of
 - 25 voters, or
 - voters representing at least 15 per cent of the population.

Each page of the petition must contain the same statement of purpose and a statement indicating that each petitioner by signing the petition attests he or she is an elector of a city or a voter of a municipality other than a city and has not previously signed the petition.²¹ For the purposes of a petition it is important that the petitioners are appropriately identified as an elector or a voter.

In addition to his or her signature each petitioner must include:

- printed surname and given names or initials;
- civic address or legal description of land on which his or her status as a voter is based;
- the date on which the petitioner signed the petition; and
- the signature of a person who witnessed the petitioner signing the petition.

The petition must be accompanied by a signed statement of an individual who indicates:

- he or she is the representative of the petitioners;
- the date on which the first signature was collected; and
- the address to whom the municipality may direct any inquiries about the petition.

¹⁹ Section 132 CA; Section 106 CA

²⁰ Section 132 MA; Section 106 CA

²¹ Section 133 MA; Section 107 CA

Overlooking any of the above requirements may compromise the validity of the petition.

A sample petition and representative's statement can be found here:

- of electors in cities see [Appendix "C"](#); and
- of voters in other municipalities see [Appendix "D"](#).

Presentation to municipality

A petition must be presented to the municipality within 90 days after the first person signs the petition. The petition is deemed to be presented to the municipality when it is filed with the administrator. If you present it to council at a meeting rather than filing it with the administrator make sure that this happens before the deadline.

Post-presentation obligations

Within 30 days after the date on which it is filed the administrator is responsible for determining the sufficiency or validity of a petition for a referendum. Names may not be added to or removed from the petition after it has been filed with the municipality. When counting the number of petitioners the following circumstances will result in the signatory being excluded:

- the petitioner's signature was not witnessed;
- the petition page contains a statement of purpose different from that contained on the other pages;
- missing or incorrect printed name of petitioner;
- missing or incorrect civic or legal address of petitioner;
- no date indicating when the petitioner signed the petition; or
- a date indicating the petitioner signed the petition earlier than that specified on the representative's declaration.

Insufficient petition

If the administrator reports that the petition is insufficient council is not required to proceed with the referendum.²²

Sufficient petition

If the petition is valid council is required to take the following steps in a timely fashion to submit the proposed bylaw or resolution to the voters:²³

- determine the date for the vote;
- finalize the wording of the draft bylaw or resolution;
- enact an election procedures bylaw or resolution;
- provide notice of the date of the vote; and

²² Section 135 MA; Section 109 CA

²³ Section 136 MA; Section 110 CA

- provide for the appointment of representatives to observe voting and ballot counting procedures.

[Appendix “E”](#) contains detailed information regarding the actions that will be taken by the municipality after it receives a valid petition for a referendum.

Petition for Audit

In the case of a municipality other than a city, voters of a municipality may petition council to undertake a financial or management audit of:

- the municipality;
- a council committee or other body established by the council; or
- a controlled corporation established by council. ²⁴

Financial or manage audits are different from the annual financial statement audit which is intended to determine if the municipality’s financial statements are prepared in accordance with generally accepted accounting principles. In so doing, the auditor is also required by the Act to report any impropriety found during the course of the audit and report to the mayor/reeve of the municipality with a copy to the Minister. Auditors use their professional discretion in determining the materiality of any items mentioned in the management letter.

A financial audit is an audit which identifies:

- instances of fraud, theft, or other financial misappropriation;
- improper or unauthorized transactions;
- non-compliance with provincial or federal statutes;
- non-compliance with municipal bylaws.

A management audit is an audit to:

- review the performance and operations of a municipality to evaluate whether its operations are undertaken economically, efficiently and effectively;
- investigate and identify issues related to the policy, organization, operation or administration of the municipality; and
- propose appropriate solutions to any issues identified during the course of the audit.

To be deemed sufficient, a petition for a financial or management audit must be signed by voters representing at least one-third of the population of the municipality. Further, the petition must also meet the technical requirements of a petition for a referendum. These technical requirements are discussed earlier in this guide – see Plebiscites and Referendums, Technical Requirements.

Within 30 days after the date on which it is filed, the administrator must inform council if the petition for a financial or management audit is or is not sufficient.

²⁴ Section 140.1 MA

Upon receipt of a sufficient petition for a financial or management audit, council must engage the services of an auditor to conduct the audit within 180 days from the date the petition is received by council. The auditor cannot be the auditor appointed to undertake the municipality's annual financial audit. Council is required to work with the auditor to define the scope of the audit, and to co-operate with the auditor during the audit. The audit must be conducted in accordance with the guidelines and standards as recommended from time to time by the Chartered Professional Accountants of Canada. The municipality is responsible for all costs of the audit.

Within 30 days of receiving the auditor's report, the municipality shall publicize a notice municipal office and in a newspaper circulating within the municipality that the report is available to the public by mail or personal delivery to any person that requests a copy. The exception to this is where misconduct is identified. In this situation, the auditor will send the report to the Deputy Minister of Justice and the municipality cannot make the report public.

Electoral Process

Members of council are elected and hold office for a fixed period of time in accordance with *The Local Government Election Act*. From a citizen's viewpoint the election process will consist of a call for nominations followed by voting for candidates.

Incumbent members of council may view re-election as approval of their performance during their last term. In many cases, individuals who seek office as a member of council including the reeve or mayor may be unchallenged and therefore they are acclaimed to office. Acclamations may also be viewed as approval of past performance or support of an individual's leadership abilities.

Citizens who desire change may offer their services by running for office or by supporting other candidates. The nomination period begins when the returning officer posts the Call for Nominations. It ends five weeks before Election Day.²⁵

- In a resort village, Election Day is the last Saturday in July, 2016, and every four years thereafter.
- In other urban municipalities, Election Day is the fourth Wednesday in October, 2016 and every four years thereafter.
- In rural municipalities, Election Day is the fourth Wednesday in October in even-numbered years.
 - Elections for the reeve and councillors representing odd numbered divisions are held in 2016 and every four years thereafter. ;
 - Elections for councillors representing even numbered divisions are held in 2018 and every four years thereafter.

²⁵ Sections 50 and 160.15 LGEA

The deadline for posting the Call for Nominations is ten business days before the close of the nomination period.²⁶

There is no legislation to recall or overturn the election of sitting members of council. Elected members are entitled to serve their full term unless they become disqualified from holding office as provided by legislation. Other than by-elections the general election is your only opportunity to effect change regarding the makeup of council.

Legal Challenge

Citizens retain the right to proceed through the courts to challenge decisions of municipal council however, this option is generally not viewed as simple, inexpensive or quick.

As with the efforts to apply political pressure to members of council your intent to consider a legal challenge involves some initial preparations. You may wish to gather copies of correspondence relating to the matter along with copies of council minutes, bylaws or other relevant documents. Consider researching the legislation particularly *The Municipalities Act* or *The Cities Act* or any other legislation dealing with the activity which is being called into question. Consult with your lawyer to obtain legal advice regarding this process.

You have the right to challenge the validity of bylaws or resolutions within 60 days of their passage.²⁷ The challenge may focus on three main areas:

- Is the bylaw or resolution illegal due to a lack of substance or form? Did council contravene legislation and/or exceed its legislative powers? The legislation provides guidance to the courts that the municipality's power to pass bylaws is to be "interpreted broadly"²⁸ and therefore, narrow interpretations may be less likely to succeed;
- Were the proceedings before the passing of the resolution or bylaw non-compliant with the Act or other legislation? In some cases council may be required to provide notice or hold a hearing prior to making a final decision regarding the matter. Proceeding in a manner contrary to that provided by legislation may render the bylaw or resolution susceptible to a challenge; and/or
- Was the process flawed? Failure to provide notice or to ensure that meetings were properly convened or held may compromise a municipality's ability to defend its bylaw or resolution.

Applications to quash bylaws or resolutions of council are heard by the Saskatchewan Court of Queen's Bench.²⁹ You are strongly advised to obtain the services of legal counsel before proceeding.

²⁶ Sections 45 and 160.15 LGEA

²⁷ Section 358 MA; Section 320 CA

²⁸ Section 6 MA; Section 6 CA

²⁹ http://www.sasklawcourts.ca/default.asp?pg=queens_bench

Bylaws or resolutions which are passed in good faith by the council may not be challenged on the grounds that the bylaw or resolution is unreasonable.³⁰ Likewise, bylaws or resolutions may not be challenged on the basis of the qualifications of members of council.³¹

You may initiate legal action if you feel you have been civilly harmed or personally wronged or injured by the municipality. Legal actions may be pursued through Small Claims Court³² or through the Saskatchewan Court of Queen's Bench.

The Law Society of Saskatchewan maintains a database of judgments which is fully searchable.³³ This online database which can be accessed free of charge, shows many actions against municipalities are unproductive however, there are situations where applicants have been successful.

Municipalities enjoy statutory immunity or non-liability, in certain circumstances including, but not limited to:

- situations where the municipality acts in accordance with its statutory authority unless it is negligent;³⁴
- most nuisances arising from public works or utilities;³⁵ and
- exercising good faith discretionary authority to not take action.³⁶

Conclusion

It has been said "democracy is a messy form of government" however, it is a form of government that is clearly accountable to its electors. Municipal government is a form of democracy and accountability and citizens' ability to influence decisions made by their elected officials, is enshrined in this form of government and its legislation.

Open communication is one of the most effective ways to lobby your members of council for specific decisions. Debate the matter with elected members, municipal officials and other citizens. Define the public interest and build political support.

The cliché "it is not possible to please all of the people all of the time" is a lesson quickly learned by many members of council. Likewise councillors, mayors and reeves who consistently disregard public opinion soon discover that they may have little support from electors when seeking re-election. Concerned citizens have opportunities to seek office or to support other candidates who may enjoy more support.

³⁰ Section 360 MA; Section 322 CA

³¹ Section 361 MA; Section 323 CA

³² http://www.sasklawcourts.ca/default.asp?pg=pc_newSmallclaimshome

³³ <http://www.lawsociety.sk.ca/>

³⁴ Section 339 MA; Section 302 CA

³⁵ Section 340 MA; Section 303 CA

³⁶ Section 341 MA; Section 304 CA

Municipal policies may be challenged through the courts. Saskatchewan courts have demonstrated their willingness to overturn decisions made in bad faith or where procedural fairness has been compromised.

This document provides information regarding options to influence decisions made by council. The initiatives described in this document do not guarantee success in every instance. More than anything else the success of your efforts will be a reflection of your:

- courage;
- persistence;
- persuasive skills; and
- support from other citizens.

For further information please contact:

Government of Saskatchewan **Ministry of Government Relations Advisory Services**
1010 – 1855 Victoria Avenue
Regina, Saskatchewan S4P 3T2
Phone: (306) 787-2680
Fax: (306) 787-3641

Appendix A – Petition for a Public Meeting

Citizens in every municipality have the right to petition the municipality to call a public meeting of voters.³⁷ The minimum number of signatures of voters required to compel the municipality to proceed with this action depends on the type of municipality.

- In cities, a petition is to be signed by at least five per cent of the population.
- In resort villages, the petition is to be signed by at least eight per cent of the voters. The petition organizers are encouraged to consult with the administrator to estimate the total number of voters. Few municipalities including resort villages use voters' lists so the exact number of voters and more importantly the minimum number of petitioners, should be clarified.
- In all other municipalities, the petition is to be signed by the greater of:
 - 20 voters; or
 - five per cent of the population.

Persons signing the petition must be eligible to vote within the municipality.

The technical requirements of the petition may differ depending upon the type of municipality.

- In cities the legislation regarding petition requirements does not address the matter of the petition purpose. Therefore, the petition requirements for a public meeting are the same as those for a referendum.
- In municipalities other than cities the legislation regarding petition requirements is specific to petitions calling for a referendum. Consult with the administrator to confirm the minimum requirements for a valid petition which may be less stringent than those required to request a referendum.

When sufficient signatures have been obtained, the petition is delivered to the council which is typically accomplished by delivering it to the municipal administrator. If citizens wish, they may formally present the petition at a council meeting. Make sure that the petition is delivered before the deadline so that none of the signatories are excluded from the petition.

The administrator is responsible to determine the sufficiency of the petition. If the petition is sufficient a public meeting must be held within 30 days of its receipt by council. Council has the right to refuse the petition if it concerns the same or similar subject of a public meeting held as the result of a petition within the past twelve months.

Council is required to provide public notice of this meeting in accordance with its Public Notice Bylaw. The minimum amount of public notice is seven days.³⁸

³⁷ Subsection 129(2) MA; Subsection 103(1) CA

³⁸ Section 128 MA; Section 102 CA

Appendix B – Conducting a Public Meeting

The mayor or reeve is responsible for calling the public meeting and its location, date and time. Legislation does not address the manner in which the public meeting is to be conducted.

In the absence of statutory requirements one has to rely on generally accepted rules of parliamentary procedure when conducting a public meeting of the voters. Authorities on parliamentary procedure have written many books on the topic most of which are available at book stores or libraries. Potential research documents include *Roberts' Rules of Order*, *Bourinot's Rules of Order* and *Parliamentary Procedure at a Glance* by O. Garfield Jones.

A public meeting of the voters may be held to provide participants with information or to gather public input regarding a particular municipal matter or concern. When such a meeting is held as the result of a petition the petition generally indicates the topic to be discussed. Attendees are usually given the opportunity to ask questions and voice their opinions.

As these meetings are not council meetings decisions affecting the municipality cannot be made. Only council at a duly held council meeting can make decisions affecting the municipality. The attendees may make suggestions and recommendations but these are not binding on council. Since this is a public meeting of the voters the voters may run the meeting with council being present to answer questions and listen to concerns.

One issue to be addressed is that of meeting officials – a chairperson and perhaps a secretary. If a secretary is appointed consideration should be given to the following:

- What information is to be recorded?
- What is to be done with the “minutes” after the meeting?

In many situations the municipal administrator may prepare notes for council's consideration at a future council meeting. If a municipal record of the meeting is prepared it should avoid verbatim comments and instead focus on key discussion points. Verbatim comments may be repetitious, irrelevant, inflammatory or incomplete and attempts to capture every word may lead to missing critical points.

The selection of the chairperson may be contingent on the purpose of the meeting and manner in which it was called.

- If council initiated the public meeting to provide information and/or solicit public input it may be appropriate for the mayor or reeve or other elected official to conduct the meeting.
- If the meeting is being held as the result of a petition or an anticipated petition it may be beneficial if someone other than an elected official fulfills the role of chairperson. The chairperson may be selected by those attending the meeting through a process of nomination and voting. Another alternative might include council and the petitioners' representative jointly appointing a neutral, capable individual.

The chairperson is responsible for making the meeting run smoothly and without disruption. The chairperson should be impartial and avoid participation in the debate. He or she should be knowledgeable about parliamentary procedures and be someone who is seen by the community as non-partisan and technically able to run a meeting. The chairperson conducts the meeting in a manner agreed to by those present.

It is a good practice for the chairperson to go over certain “ground rules” and get agreement from the attendees on these rules before discussion starts. Some “ground rules” the chairperson might want to consider are:

- explaining the purpose of the meeting;
- establishing an order of business (agenda);
- attendance by the public (i.e. non-voters) and news media;
- allowing or prohibiting tape or video recordings;
- length of time and number of times a speaker is given the floor; and
- the procedure for handling resolutions if any, while bearing in mind that resolutions will not bind council to a course of action.

Appendix C – Petition for Referendum (Cities)

STATEMENT OF REPRESENTATIVE OF PETITIONERS

TO: THE CLERK OF THE CITY OF _____

Submitted herewith is a petition pursuant to section 106 of *The Cities Act*.

I am attaching this statement to the petition as required by section 107 of *The Cities Act* and:

I do hereby declare that I am a representative of the petitioners and the City may direct any inquiries about the petition to me at the following address:

Printed Name

Address

City

Postal Code

Daytime phone number

Other phone numbers where you can be reached

SIGNATURE OF REPRESENTATIVE

DATE SUBMITTED TO THE CLERK

PETITION REQUESTING A REFERENDUM

We the undersigned being electors of the _____ of _____ do hereby petition according to section 106 of *The Cities Act* the Council of the _____ of _____ to hold a referendum for the purpose of submitting the following matter to the electors for approval or rejection:

(State clearly the question that is being petitioned for submission to the electors)

(NOTE: Each page must have an identical statement of purpose and must be filed within 90 days of the first signature to be valid)

Each Signatory below hereby attests that he or she is a qualified elector of the municipality and has not previously signed the petition.			
Signature of Elector (Print and Sign Name)	POST OFFICE BOXES ARE NOT ACCEPTABLE Address (House and Street Name or Legal Land Description)	Date Signed	Witness (Must be 18 or over)
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		

Appendix D – Petition for Referendum (other than cities)

STATEMENT OF REPRESENTATIVE OF PETITIONERS

TO: THE ADMINISTRATOR OF _____

Submitted herewith is a petition pursuant to section 132 of *The Municipalities Act*.

I am attaching this statement to the petition as required by section 133 of *The Municipalities Act* and:

I do hereby declare that I am a representative of the petitioners and the municipality may direct any inquiries about the petition to me at the following address:

Printed Name

Address

Town/Village /RM

Postal Code

Daytime phone number

Other phone numbers where you can be reached

SIGNATURE OF REPRESENTATIVE

DATE SUBMITTED TO THE ADMINISTRATOR

PETITION REQUESTING A REFERENDUM

We the undersigned, being voters of the _____ of _____ do hereby petition according to section 132 of *The Municipalities Act* the Council of the _____ of _____ to hold a referendum for the purpose of submitting the following matter to the voters for approval or rejection:

(State clearly the question that is being petitioned for submission to the voters)

(NOTE: Each page must have an identical statement of purpose and must be filed within 90 days of the first signature to be valid)

Each Signatory below hereby attests that he or she is a qualified voter of the municipality and has not previously signed the petition.

Signature of Voter (Print and Sign Name)	POST OFFICE BOXES ARE NOT ACCEPTABLE Address (House and Street Name or Legal Land Description)	Date Signed	Witness (Must be 18 or over)
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		
Print ----- Sign	-----		

Appendix E – Municipal Actions after Receiving a Valid Petition

If the petition is valid council is required to take specific steps in a timely fashion to submit the proposed bylaw or resolution to the voters.³⁹

- In the case of a resort village where the petition is filed on or before March 1st of the year in which a general election is being held the vote shall be held before the end of the year. If the petition is filed at any other time the vote will be held within nine months after the petition is filed with the municipality.
- In the case of other municipalities where the petition is filed on or before July 1st of the year in which a general election is being held the vote shall be held before the end of the year. If the petition is filed at any time the vote will be held within nine months after the petition is filed with the municipality.

The wording of the draft bylaw or resolution is to be finalized at least eight weeks before the vote.

If council passes the bylaw or resolution requested by the petition then it is not required to proceed with the referendum.

The council may apply to the Court of Queen's Bench for direction if:⁴⁰

- the wording of the petition is unclear,
- there are conflicting petitions or
- for any other reason where the court's direction might be required.

The petitioners' representative or representatives are to be provided notice that the court's direction is being sought and any order the court makes regarding the petition shall govern the referendum vote.

The Local Government Election Act (the LGEA) requires urban municipalities to enact an election bylaw which will address the following matters:⁴¹

- date of the vote which may correspond to the date of the general election or a by-election;
- time and place that the returning officer will declare the results of the vote; and
- time and place that the returning officer will receive representations and designate observers.

Rural municipalities are required to pass a resolution to address voting issues specifically:⁴²

- date of the vote, which may be on the date of a general election;
- appointment of the returning officer;

³⁹ Section 136 MA; Section 110 CA

⁴⁰ Section 138 MA; Section 112 CA

⁴¹ Section 115 LGEA

⁴² Section 160.9 LGEA

- location of the polling place for each division;
- appointment of a deputy returning officer and any other election officials the council considers necessary; and
- time and place that the returning officer will count the ballots.

Public notice is to be provided respecting the voting date:

- In urban municipalities the first publication of the notice must occur between three to five weeks before voting day. Although the notice is legislatively required to be published once council may publish it more often. The notice must outline the purpose of the vote. For example, it should say what question is being put to the voters or what is the intent of the proposed bylaw. Borrowing bylaws will include particulars of the debt to be incurred. Bylaws granting a special privilege or franchise are to be published in full. The notice will also indicate when results will be announced and full particulars regarding when and where electors may vote.⁴³
- In rural municipalities notice must be provided by publication of a prescribed form in a local newspaper at least eight days before voting day. The prescribed form includes a summary of the bylaw or question being submitted to the voters, the date and location where voting will take place and the date and location where the returning officer will announce the results.⁴⁴

Supporters and opponents of the bylaw or question may oversee voting and ballot counting procedures:

- In urban municipalities the returning officer will receive representations requesting these appointments at the time and location specified in the election procedure bylaw. Up to two members of either side may attend while votes are being cast however, only one member from each side is permitted to attend the counting of the ballots.⁴⁵
- In rural municipalities persons interested in promoting or opposing the proposed bylaw or question apply to the reeve who may authorize two persons to attend on behalf of each applicant at the polling place, the counting of the votes and any recount that might occur.⁴⁶

If the vote results in a tie the effective result is that the referendum was not won and the matter is deemed to be resolved in favour of the status quo.⁴⁷

The provisions respecting voter qualifications, advance polls, voting procedures, recounts and other challenges are the same as those which normally apply to municipal elections.

⁴³ Section 116 LGEA

⁴⁴ Section 160.91 LGEA

⁴⁵ Section 118 LGEA

⁴⁶ Section 160.93 LGEA

⁴⁷ Sections 124 & 160.95 LGEA

Further information regarding this topic may be obtained from the *Election Information* portion of the Ministry's website.⁴⁸

⁴⁸ <http://www.municipal.gov.sk.ca>