(Revised) Analysis of Amendments to Bill 21 (December 6, 2016)

	Policy Issue	Existing MGA	Bill 21 Contents (Spring 2016)	Amendments to Bill 21 (November 2016)	AUMA Comment
1.	Offsite Levies	Offsite levies can be used for sanitary sewer, storm sewer, roads, and water infrastructure in new developments.	The scope of offsite levies will be expanded to community recreation facilities, fire halls, police stations and libraries, where at least 30 per cent of the benefit of the facility accrues to the new development in a defined benefitting area. Where this threshold is met, developers will contribute costs based on proportional benefit. A dispute resolution mechanism will be created and available to deal with any disputes around offsite levies. There are no new provisions for re-collecting levies following significant redevelopment or re-negotiating additional levies with developers.	**Amendments to Bill 21:** a) Remove the requirement that 30 per cent of the benefit of a new facility must accrue to a new development before offsite levies may be charged. b) Specify that that "community recreation centres" are "indoor" facilities. c) Remove the ability of the Municipal Government Board (that is hearing an appeal of an offsite levy) to order the municipality to amend the bylaw, to repeal or amend the bylaw on their own, and to change the calculation formula of an offsite levy.	**AUMA strongly advocated for the 30 per cent restriction to be removed from Bill 21 and is pleased to see these amendments:** a) This change will allow a greater ability for municipalities to use the new offsite levy provisions. b) The definition of community recreation centre will increase clarity and provide certainty for all involved; however, the definition is too narrow for municipalities that would like to develop recreation facilities with outdoor components such as an outdoor skating rink, or a spray park. c) The removal of the MGB's ability to order a municipality to amend a bylaw or to repeal a bylaw on their own is a positive change; however, the regulations will provide more insight on implementation. **AUMA recommendations not yet addressed include:** • Allow for the re-collection of levies following significant redevelopment and allow for negotiations with developers on additional levies. • Allow for regional and intermunicipal offsite levies. • Allow offsite levies to cover municipal costs associated with provincial infrastructure supporting new development such as highways and overpasses.

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2.	Elected Official Training	The MGA does not require council or administration orientation and training.	Municipalities will be required to offer orientation training to elected officials following each municipal election and by-election.	**Amendments to Bill 21:** a) Amend the section to require municipalities to offer "or arrange" for training "to be held" within 90 days after each councillor "takes the oath of office", to address scenarios where training may be offered by a third party or there may be a delay between being elected and taking office. b) Add "the municipality's code of conduct" to the list of orientation topics, as the code of conduct is intended to support compliance for training. c) Make this new policy come in force as of July 1, 2017 to apply to the summer village elections.	**The amendments appear to improve the original Bill 21 provisions and are consistent, overall, with AUMA's positions:** a) This is in line with the changes AUMA advocated for that training should be mandatory within 90 days. b) The code of conduct will allow municipalities to locally enforce that elected officials taking the training c) This change means that summer villages that hold their elections in summer 2017 (before the Bill is proclaimed) will still be bound to the requirements of elected official training. It is unclear if the proposed training for elected officials will be supplemented by a regulation, or by further changes to the Act. **AUMA recommendations not yet addressed include:** • The MGA should say outright that it is mandatory to take the training. • The MGA should specify allowable sanctions if training is not completed within the specified time.

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3.	Municipally Controlled Corporations	Municipalities require the approval of the Minister of Municipal Affairs in order to establish a municipally controlled for-profit corporation	Municipalities will be allowed to establish municipally controlled for-profit corporations without specific permission.	**Amendments to Bill 21:** a) Add a reference to subsidiaries of existing Municipally Controlled Corporations. b) Remove the requirement for a due diligence study, as stakeholders indicated the business plan is sufficient. c) Indicate that a council must be "satisfied" that the legislated purposes of the Municipally Controlled Corporations as outlined have been met. d) Elevate from the regulation the legislated purpose that the profits and dividends of the controlled corporation will provide a direct benefit to the residents of the municipality or group of municipalities that controls it. e) Strike out the restriction on operating outside Alberta, as Bill 21 proposes to make this a local decision.	**AUMA has advocated for these changes and is supportive of these amendments:** a) This is a proposed clarification amendment that reduces confusion. b) A due diligence study would have created an unnecessary cost, so removal of this requirement is appropriate. c) This adds transparency so that the municipally controlled corporation is operating in the manner that council intends. d) As this is restating from the regulation that profits from a MCC return to the municipality AUMA would be in support of this change. e) Many municipally controlled corporations either operate outside of the province, or would like to - and this may potentially increase benefit to a municipality. **AUMA recommendations not yet addressed include:** • Expand to encompass corporations owned by multiple municipalities and not just corporations owned by a single municipality. • Allow new and existing Regional Services Commissions to have the same ability to form and to be amended without requiring permission from the Minister.

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4.	Decision-Making Timelines for Development Permits	The MGA specifies the timelines for issuing decisions and lodging appeals for subdivision and development applications.	Municipalities will be able to revise a development application to ensure all necessary documentation has been submitted, and for applicants to provide supplemental documents to complete an application. Cities or specialized municipalities will be able to create bylaws to set their own timelines for when an application must be complete, and when an application decision must be made. • This provision allows all municipalities to have an additional 20 days to determine completeness of subdivision and development applications. Existing decision-making timelines for most municipalities will be maintained; however, cities and specified specialized municipalities (those with large urban centres) will have the option to adopt their own decision timelines by way of bylaw.	**Amendments to Bill 21:** a) Amend the flexibility for timelines on subdivision and development permit applications to substitute "a council of a city or a population of 15 000 or more" to support the original intent to support municipalities who deal with high volume, complexity, and diversity of applications. General clarifying and technical amendments for planning provisions: b) Correct the reference to development permit appeals going to the MGB, as they do not go to the MGB. c) Replace the term "water body" with "body of water" as "water body" is defined in the Water Act for a different purpose than the intended municipal governance purposes. The definition will remain as is.	**AUMA has advocated for these changes and would be supportive of these amendments:** a) This expands the scope of municipalities that will be enabled to have flexibility in timelines for subdivision and development permit applications. This change allows for all cities of any population, as well as any municipality with a population of 15 000 or more to use these provisions. b) This is a proposed amendment that would correct an error. c) This clarification may increase consistency in application of the definitions, though it is unknown if there will be implications to environmental reserve.

5.	Intermunicipal Collaboration	Co-operation between neighbouring municipalities is voluntary, with substantial variation across the province.	Mandatory intermunicipal mechanisms will be implemented for regional land-use planning needs, and for the planning, delivery, and funding of regional services. All municipalities outside of the metro areas must adopt an Intermunicipal Collaboration Framework (ICF) within 3 years. Municipalities' party to a Growth Management Board (GMB) will only need to develop an ICF if the GMB agreement is silent on an issue that is required in an ICF. The ICF will include an IDP with all municipalities with which they share a boundary. These frameworks can be individual agreements or regional agreements.	**Amendments to Bill 21:** a) Clarify that Improvement Districts are subject to an ICF b) Clarify that members of a Growth Management Board will be exempt from Intermunicipal Collaboration Frameworks to the extent that mandatory components of Intermunicipal Collaboration Frameworks are addressed by the GMB. c) Clarify that members of a Growth Management Board are required to develop Intermunicipal Collaboration Frameworks with non-member neighbours. d) Clarify that municipalities are required to act in good faith in the negotiation of Intermunicipal Collaboration Frameworks and IDPs. e) Clarify that IDPs and MDPs must be developed by the time an ICF is required to be completed, as ICFs must contain IDPs and MDPs. f) Change the timeline for the development of IDPs and MDPs to two years. g) Remove the requirement to include "proposals for the financing and programming of intermunicipal infrastructure for the area" and "the provision of intermunicipal services and facilities"	**Amendments to Intermunicipal Collaboration Frameworks do not directionally change the provisions in Bill 21; proposed amendments only to improve clarity.** **AUMA is supportive of these amendments to the extent that they would assist in the consistent understanding and application of the Intermunicipal Collaboration Framework provisions; however, AUMA advocated that MDPs should be required within five years rather than within three years so as to lighten the burden on municipalities who do not presently have MDPs.** **The province has indicated that the removal of the requirement for an IDP to speak to infrastructure is to separate the contents of an ICF from an IDP. An IDP is intended to be a planning document and the ICF is to speak to the provision of services and infrastructure between municipalities. There remains a need for the explicit inclusion of infrastructure (full lifecycle cost, including operating and capital expenses, and interest payments for existing and new services and infrastructure) to be stated in the legislation, whether in the Act or in forthcoming corresponding regulations.** **AUMA recommendations not yet addressed include:** • Amend Section 708.28(2) so that municipalities must be party to an ICF agreement where they share services and infrastructure. • Specify that ICFs are mandatory for a shared service area (rather than only within the context of municipalities that share a boundary), unless all parties in an area determine that they would prefer to do individual ICFs. Expand the scope in section 708.27, 708.28, 708.29, 708.29(2) to specify that ALL services AND infrastructure that provide benefits to residents in other municipalities are required to be considered as part of the ICF).

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5.	Intermunicipal Collaboration, Continued				• The purpose of ICFs from 708.27 needs to cascade into the implementation and contents of ICFs (708.28, 708.29), which currently only references provision of service, not benefit of service. Provide definitions for: - regional services in GMBs (708.02(2)(j)); and - intermunicipal services (708.27(a)) (should be consistent with regional services above). • As part of services and infrastructure, explicitly include full lifecycle costs, including operating and capital, interest payments for existing and new services and infrastructure (708.29(1)(b)(i-iii)). • Services and infrastructure should also include economic development, as well as properties exempt under COPTER. • Consider using formulas or consistent processes to determine how to cost-share services and infrastructure (e.g. how lifecycle costs are calculated). • Outline a shared governance structure for cost-shared services and infrastructure, whereby municipalities that contribute above a certain threshold have some decision-making authority about the services and infrastructure. Arbitration is binding for the five-year period as specified by the legislation, unless both parties want to open it up before those five years. • Include a provision that allows arbitrators to consider impacted municipalities' collective ability to pay in the development of the ICF. • Arbitration should be carried out by a panel of arbitrators so that appropriate skillsets and understanding of municipal issues and the legislation are brought into the decision.

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6.	Impartiality of Appeal Boards	Municipal councillors and public members sit on municipal appeal boards. Councillors may not form the majority of a Subdivision and Development Appeal Board. The Chair of the Municipal Government Board (MGB) is the Deputy Minister or designate.	Municipal councillors will be prohibited from forming the majority of any MGA-referenced municipal appeal board or individual hearing panel.	**Amendments to Bill 21:** a) Indicate that there may be only one councillor on a LARB panel hearing a complaint, including regional LARBs, and if the panel consists of only one member it may not be a councillor. Make parallel amendments for CARB and SDAB hearing panels. b) Allow the Minister to order that these new restrictions do not apply to a municipality, to address concerns for those where it is very challenging to get panel members who are not councillors.	**AUMA may be partially supportive of these amendments, depending on the legislative text that is proposed.** a) This change reduces flexibility for municipalities, reducing the number of councillors that may sit on Boards. (Bill 21 stated that councillors could not form majority of members, and this amendment reduces the number to only one councillor on a panel.) b) The ability for the Minister to remove this restriction could potentially be workable for municipalities that have challenges in recruiting members. However, the feasibility of this will depend on the processes and timing of making this determination. **AUMA recommendations not yet addressed include:** • Amend 454.11(2)(b) to allow for the majority of members of a hearing panel to be councillors outside of the formalized regional appeal board, provided that this majority is a result of the inclusion of councillors from other municipalities.

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7.	Centralization of Industrial Assessment	The application of definitions and valuation methodologies are varied due to the complex nature of regulated industrial properties. Assessment of these properties is currently separated between municipalities and the province.	Assessment of all designated industrial property will be centralized within Municipal Affairs. Costs associated with the centralized assessment of industrial property will be recovered from designated industrial property owners. Supplementary assessment on linear properties will be allowed and a standard assessment condition date of October 21 annually will be established for designated industrial properties. • Designated industrial property will include linear properties, all rail (main lines and spur lines), electric power generation, and major plants (including lands, building and structures, and machinery and equipment (M&E) relating to major plants). It will not include light industrial warehouses or facilities that could be converted to another application. • All appeals related to designated-industrial property will be heard by the Municipal Government Board.	**Amendments to Bill 21:** a) Clarify the definition of "industrial property" to capture all property ancillary to a major plant. General clarifying and technical amendments for assessment and taxation provisions: b) Assessors will be specified that they are designated officers. c) Any necessary information must be provided for assessors to carry out their duties and responsibilities. d) Requests for assessment information made prior to the filing of a complaint are adhered to in accordance with the legislated timelines.	**AUMA may be supportive of these amendments, depending on the legislative text that is proposed. The changes set out may allow for AUMA's suggestions to be included in forthcoming regulations.** **AUMA recommendations not yet addressed include:** • Require the provincial assessor to share valuation details and other relevant information with the municipal assessor/ municipality to ensure transparency. • Require updates to regulated assessment rates annually. • Create a third party audit function so that the province is not auditing its own assessment. • Enable municipalities to participate in any assessment appeals for assessments provided by the provincial assessor.