

----- **MGB ANNEXATION PROCEDURE RULES** -----

TABLE OF CONTENTS

PREFACE 3

Purpose of the Rules 3

Operating Principles 3

Part A – Interpretation and Application of these Rules..... 4

 1. Definitions 4

 2. Application of These Rules 5

 3. Effect of Non-compliance 5

Part B – Communication with and Representation before the Board..... 5

 4. Communication with the Board 5

 5. Representation 5

Part C – Procedures for Filing Notices of Intent and Annexation Applications..... 6

 6. Documentation to Accompany Notices of Intent and Applications..... 6

Part D – Case Management and Preliminary Hearings..... 7

 7. Case Management..... 7

 8. Preliminary Hearings 8

Part E – Prehearing Submissions and Disclosure..... 9

 9. Disclosure..... 9

 10. Form of Documents 9

Part F – Orders for Further Disclosure or to Protect Confidential Information..... 10

 11. Orders for Disclosure 10

 12. Disclosure of Confidential Information 11

Part G – Withdrawals, Agreements, and Postponements	11
13. Withdrawals.....	11
14. Agreements.....	11
15. Postponements.....	12
Part H – Overlapping Annexations, Dissolution or Amalgamation Proceedings	13
16. Annexation Applications for Same Land.....	13
17. Dissolution Study.....	13
Part I – Hearing Procedures	14
18. Location of Hearings.....	14
19. Mode of Hearings.....	14
20. Identification of Participants and Notice of Oral Submissions.....	14
21. Cost of Participation	14
22. Recording of Proceedings	14
Part J – Recusal of Panel Members	15
23. Withdrawal of Panel Members Owing to Apprehension of Bias.....	15
Part K – Post-Hearing Procedures	16
24. Costs.....	16
25. Access to Board Reports	17
26. Access to other Board Records.....	17
Appendix "A"	18
Notice of Annexation Application	18
Appendix "B"	22
Annexation Principles	22

PREFACE

These Annexation Procedure Rules were established under section 523 of the *Municipal Government Act*. They apply to all annexation appeals. The Board reviews and amends its rules from time to time to ensure continued relevance and consistency with governing legislation. This version applies as of June 15, 2018.

Informal Bulletins explaining annexation hearings and the subject matter they deal with can be found on the Municipal Government Board website:

<http://www.mgb.alberta.ca>

For further information you can also contact the Board's office at 780-427-4864 (outside Edmonton call 310-0000 to be connected toll free) or email mgbmail@gov.ab.ca.

Purpose of the Rules

The purpose of the *Annexation Procedure Rules* is to

- Provide information about the steps involved with annexation proceedings before the MGB.
- Ensure a fair, open and accessible process.
- Increase the efficiency and timeliness of annexation proceedings.

Operating Principles

These *Rules* recognize that municipalities and persons affected by a proposed annexation should have a fair opportunity to voice their concerns to the Board before it makes its recommendation to the Minister.

Hearing participants are encouraged to discuss, develop and bring forward mutually acceptable solutions to issues wherever possible.

Part A – Interpretation and Application of these Rules

1. *Definitions*
- 1.1 “**Act**” means the Alberta *Municipal Government Act*, RSA 2000, c M-26, as amended from time to time.
 - 1.2 “**Affected person**” means a person affected by an annexation application who has a right to participate in Board proceedings to the extent permitted under the *Act* and these *Rules*.
 - 1.3 “**Board**” means the Alberta Municipal Government Board and includes any panel of the Municipal Government Board.
 - 1.4 “**Board administration**” means staff engaged to support the Board and Chair carry out their duties.
 - 1.5 “**Board member**” means a member of the Board appointed by the Lieutenant Governor in Council pursuant to section 486 of the *Act*.
 - 1.6 “**Case manager**” means a board member or member of the board administration designated by the Chair as such.
 - 1.7 “**Chair**”, for the purposes of these *Rules*, means the Chair of the Municipal Government Board.
 - 1.8 “**Days**” means calendar days.
 - 1.9 “**Initiating municipality**” means a municipal authority that commences an annexation by filing a notice of intent with the Board pursuant to section 116 of the *Act*.
 - 1.10 “**Minister**” means the Minister responsible for the *Municipal Government Act*.
 - 1.11 “**Panel**” means a panel selected pursuant to section 487 of the *Act*.
 - 1.12 “**Person**” includes a natural person, government agency, corporate or other legal entity.
 - 1.13 “**Responding municipality**” means a municipal authority from which an initiating municipality proposes to annex land.
 - 1.14 “**Rules**” mean these *Annexation Procedure Rules*.

- 2. Application of These Rules**
- 2.1 Subject to Rules 2.2 and 2.3, these *Rules* apply to any annexation proceeding before the Board pursuant to Part 4, Division 6 of the Act.
- 2.2 These *Rules* apply only to the extent they are consistent with the Act and regulations made under the Act.
- 2.3 The Board may give specific procedural directions which, to the extent of those directions, waive or modify the Rules for any given case.
- 3. Effect of Non-compliance**
- 3.1 If a person fails without reasonable excuse to comply with these *Rules* or with an order of the Board, the Board may
- (a) Limit or bar the presentation of evidence or argument or give it less weight, where the person has disregarded a Rule or Board decision concerning disclosure or exchange of evidence or argument,
 - (b) Order the non-complying person to reimburse another person for costs incurred as a result of the non-compliance, or
 - (c) Take any other action it deems appropriate.

Part B – Communication with and Representation before the Board

- 4. Communication with the Board**
- 4.1 Unless made during a hearing, preliminary hearing, or case management meeting, communications with the Board about specific ongoing proceedings must be made through the Board administration.
- 4.2 The Board administration may copy correspondence received to other persons in order to facilitate Board proceedings.
- 5. Representation**
- 5.1 Persons who participate in Board proceedings may represent themselves or be represented by another person.
- 5.2 Upon the Board’s or the Board administration’s request, a person who acts for another person must provide, by the date requested
- (a) Proof of authorization to act for the other person, and
 - (b) An address for service.

Part C – Procedures for Filing Notices of Intent and Annexation Applications

6. *Documentation to Accompany Notices of Intent and Applications*
- 6.1 Written notice to the Board made under section 116(1)(b) of the Act must be accompanied by a list of the authorities that the initiating municipality believes may be affected by the proposal, including, but not limited to
- (a) The one or more municipality, special area or improvement district authorities from which the land is to be annexed.
 - (b) The board of trustees of the local school district(s) or division(s).
 - (c) Any regional health authorities.
 - (d) Any regional services commissions.
 - (e) Alberta Transportation.
 - (f) Public utility operator providing services to the initiating municipality and the area proposed for annexation.
 - (g) Irrigation districts.
- 6.2 A report on negotiations prepared in accordance with section 118 of the Act and filed with the Board under section 119 as an application for annexation must be accompanied by
- (a) A copy of the form attached to these *Rules* in Appendix “A” indicating whether the initiating and responding municipalities and the public are in general agreement with the annexation, and
 - (i) Where the initiating municipality believes there is no general agreement, all the items marked with an X in the column headed “No General Agreement” in the Table attached to these *Rules* as Appendix “A”.
 - (ii) Where the initiating municipality believes there is general agreement, all the items marked with an X in the column headed “general agreement” in the Table attached to these *Rules* as Appendix “A”.

- (b) Such further material as may be directed by a case manager or the Board.

Part D – Case Management and Preliminary Hearings

7. Case Management

- 7.1 A case manager may do one or more of the following:
 - (a) Direct the initiating municipality, responding municipality or one or more affected persons to
 - (i) Clarify or focus the issues in dispute.
 - (ii) Identify any relevant agreed facts.
 - (iii) Identify any witnesses to be called and provide a summary of the evidence intended to be introduced through those witnesses.
 - (b) Provide the initiating municipality, responding municipality or one or more affected persons with copies of correspondence received, decisions, authorities and other information relevant to the annexation.
 - (c) Direct an initiating municipality or responding municipality to provide any affected person with access to annexation applications made under section 119 of the Act.
 - (d) Direct disclosure of further material or information from the initiating municipality, responding municipality or one or more affected persons to facilitate a fair, orderly and timely hearing process or to promote compliance with these *Rules*.
 - (e) Direct that communication with the Board or disclosure of some or all material or information be made or remade in approved electronic format or in hard copy, or any combination of both.
 - (f) Direct that evidence be submitted to the Board by affidavit by a particular date.
 - (g) Establish or reschedule dates for hearings, disclosure or exchanges of information.

- (h) Screen and refer an application for the Minister to consider processing under section 126.
- (i) Hold meetings or discussions with the initiating municipality, responding municipality or one or more affected persons to facilitate any of the above.
- (j) Refer any matter to a panel for a preliminary hearing.

7.2 A municipality or affected person who disagrees with a case manager's directive may request a preliminary hearing.

7.3 A Board member who has acted as a case manager in respect of a matter will not participate in any subsequent hearing concerning the same matter unless all affected participants consent.

8. Preliminary Hearings

8.1 At a preliminary hearing, the Board may do one or more of the following:

- (a) Direct the initiating municipality, responding municipality or one or more affected persons to pursue discussions on their own, with a case manager, or with another independent facilitator by specified dates and monitor the progress of such discussions.
- (b) Establish dates for hearings.
- (c) Determine whether further disclosure is required and direct the initiating municipality, responding municipality or one or more affected persons to provide or expand particulars, evidence summaries, legal analyses, authorities, or any other relevant documents or material.
- (d) Give directions for disclosure or exchange of material, including the timing for production of material, the persons to whom the material must be produced, measures to protect confidential information, and any further directions it deems necessary.
- (e) Determine whether procedures, filing or disclosure requirements established by legislation or the Board have been met, and determine the effects of any defects.
- (f) Determine whether a person is affected by an annexation proceeding and the extent to which that person is entitled to participate in the proceeding.

- (g) Determine what matters are properly before the Board or whether one or more grounds of complaint should be struck out as frivolous or not reasonably supportable.
 - (h) Determine requests for postponements, withdrawals, or joint recommendations.
 - (i) Make any order it deems appropriate to establish procedures by which a hearing may proceed in a fair and expeditious manner.
- 8.2 Board members who have heard or participated in a panel for a preliminary hearing may also hear or participate in panels for any subsequent hearings concerning the same proceeding if so scheduled by the Chair.

Part E – Prehearing Submissions and Disclosure

- 9. Disclosure**
 - 9.1 Municipalities and affected persons must disclose or exchange any material required under Rules 7 or 8 as directed by a case manager or the Board.
 - 9.2 Unless it grants special permission, the Board will not accept written material filed after it has convened to hear oral submissions.
- 10. Form of Documents**
 - 10.1 Material filed must be clear and understandable. All pages must be numbered consecutively throughout the entire text and graphic content, even if there are dividers or tabs.
 - 10.2 Unless otherwise directed by a case manager or the Board, parties must file five (5) hard copies of their material with the Board.
 - 10.3 Documents may be filed electronically with the permission of the Board or a case manager.

Part F – Orders for Further Disclosure or to Protect Confidential Information

11. Orders for Disclosure

Sharing information before the hearing prevents surprise, encourages resolution through discussion, and facilitates efficient presentations to the Board

11.1 After reviewing the material provided under Rule 9.1, an affected person, initiating or responding municipality may request in writing that the Board issue an order for further disclosure. Such a request must

- (a) Identify as precisely as possible the information or material required and the issue(s) to which it relates,
- (b) Provide details explaining how the disclosure requested may be relevant to the issue(s) before the Board, and
- (c) Identify the person who will be required to disclose the information.

11.2 When entertaining a request made under this Rule, the Board may consider whether

- (a) The material requested should have been disclosed under these *Rules*, a preliminary hearing decision, or other legal requirement;
- (b) The material requested is
 - (i) Within the control of another person,
 - (ii) Not readily available from another source,
 - (iii) Potentially relevant to the proceedings before the Board, and
 - (iv) Reasonably required by the person requesting the information to make their own submissions.

11.3 After considering a request under this Rule, the Board may

- (a) Order disclosure within a specific time of all or some of the material requested by the other person, with or without conditions, including conditions to protect any confidential information.
- (b) Refuse to order disclosure of the information requested.
- (c) Give any other direction it deems to be appropriate.

- 12. Disclosure of Confidential Information** 12.1 Upon request, the Board may make any order it deems appropriate to help protect the confidential nature of information contained in documents filed with it.
- Sealing Orders** 12.2 An order under Rule 12.1 may include a sealing order to exclude documents or parts thereof from the public record in accordance with section 525.1(5) of the Act.
- Confidentiality on Production of Documents** 12.3 Where the Board determines that information in documents containing confidential or sensitive material must be disclosed to another person, the Board may, if it deems it appropriate
- (a) Order the first person to make and disclose a non-sensitive summary or extract of the original,
 - (b) Order the material to be provided to the other person subject to a signed undertaking satisfactory to the panel,
 - (c) Order restrictions on the use of information by observers to a hearing where confidential information is presented,
 - (d) Hold a hearing wholly or partially in private in accordance with section 525.1 of the Act,
 - (e) Make any other arrangement suitable in the context of an open hearing to allow access to the information without unnecessarily compromising its sensitive nature.

Part G - Withdrawals, Agreements, and Postponements

- 13. Withdrawals** 13.1 An initiating municipality may request to withdraw an application for annexation that it initiated before the Board.
- 13.2 Subject to waiver from the Board or Board administration, a person who submits a withdrawal request either
- (a) After the hearing has been advertised, or
 - (b) After notices of the hearing have already been distributed
- shall appear on the scheduled date to explain the reason for the late withdrawal.
- 14. Agreements** 14.1 Where two or more municipalities or affected persons reach an agreement concerning an issue before the Board, they may provide the Board with a notice of agreement.

- 14.2 Agreements are to be submitted to the Board in writing.
- 14.3 The Board may recommend acceptance or rejection of an agreement, or ask for supporting information.
- 14.4 Subject to waiver from the Board or a case manager, parties must be prepared to proceed at the scheduled hearing date to explain the agreement and to provide other submissions as may be required.

15. Postponements

- 15.1 A request to postpone a scheduled hearing must
 - (a) Include reasons for the postponement.
 - (b) Suggest suitable replacement dates for the hearing, or in the case of a request for postponement sine die, include reasons why a specific date cannot be identified.
 - (c) Be communicated to the Board as soon as the need arises.

**Late
Postponement
Requests**

- 15.2 Subject to waiver from the Board or Board administration, a person who submits a postponement request either
 - (a) After the hearing has been advertised, or
 - (b) After notices of the hearing have already been distributedshall appear on the scheduled date to explain the reason for the postponement request.
- 15.3 The Board may consider the following factors as relevant to deciding postponement requests:
 - (a) Whether the request is based on
 - (i) a serious impediment to the attendance of a principal hearing participant, witness or agent, such as illness, injury or impassable weather conditions, or
 - (ii) a serious issue affecting the fairness of the Board's proceedings.

- (b) The degree and likelihood of prejudice or cost to other persons, if the request is granted and to the person seeking the postponement, if the request is denied.
- (c) The number of persons affected by the delay and whether they have consented to the postponement.
- (d) The likelihood of unreasonable disruption to the Board's schedule.
- (e) Where the request is based on relevant pending Board or Court decisions
 - (i) Whether the decision(s) is expected within 30 days, and
 - (ii) Whether the relevant proceedings have been pursued expeditiously.
- (f) Legislated timelines for hearings and decisions.
- (g) Any other factor the Board deems relevant.

15.4 Subject to waiver from the Board or Board administration, all hearing participants must be prepared to proceed at the hearing date scheduled in case the request is not granted.

Part H – Overlapping Annexations, Dissolution or Amalgamation Proceedings

16. Annexation Applications for Same Land

- 16.1 Where two or more annexation applications are received from different municipalities in respect of the same land,
- (a) The Board will deal with them in the order in which they are received; but
 - (b) A municipality that has filed an annexation application in respect of the same land may participate in the proceedings as an affected person.

17. Dissolution Study

- 17.1 Where an annexation application is received while a dissolution study is in progress concerning one of the affected municipalities, the Board will hold a preliminary hearing to determine whether the annexation hearing should be

Board are to be borne by the person who requested the record, unless others agree to share the costs.

- (b) Other persons specified by the Board are to receive additional copies of any transcription or recording, provided they cover the cost of the copies they receive.
- (c) The process of recording or transcription will not interrupt the orderly conduct of Board proceedings.
- (d) The recording or transcription proposed will be, in the view of the panel, of sufficient accuracy.
- (e) Any other condition the Board finds appropriate.

22.3 The Board may provide for the recording of its own proceedings where it deems it necessary to do so.

Part J – Recusal of Panel Members

23. Withdrawal of Panel Members Owing to Apprehension of Bias

23.1 Where a panel member becomes aware of circumstances that he or she believes may raise a reasonable apprehension of bias, that member will

- (a) Disclose the circumstances and withdraw from the panel, or
- (b) Disclose the circumstances and give the affected parties an opportunity to either
 - (i) Waive any objection to the member sitting on the panel, or
 - (ii) Give reasons as to why the panel member should or should not withdraw.

23.2 An initiating or responding municipality or an affected person may ask a panel member to withdraw because of a reasonable apprehension of bias. A person who makes such a request must do so as soon the circumstances giving rise to it become known and must provide reasons for the request.

23.3 Where a member has been asked to withdraw, the panel will give an opportunity to the initiating municipality, responding municipality, and any affected persons it deems to have a

sufficient interest to address the question of whether the circumstances raise a reasonable apprehension of bias.

- 23.4 The decision to grant or dismiss a request to withdraw because of an apprehension of bias must be made by the member in question.
- 23.5 A panel member may confer with other panel members before deciding whether to withdraw.
- 23.6 A panel from which one or more members has withdrawn may
 - (a) Proceed to hear the matters before it, subject to the existence of a quorum as defined in section 489 of the Act, or
 - (b) Adjourn or make arrangements to reschedule a matter so that it may be heard by a full panel.

Part K – Post-Hearing Procedures

24. Costs

See Section 501

- 24.1 When determining whether to award costs, the Board may consider whether the person(s) against whom they are to be awarded
 - (a) Has abused the Board’s process.
 - (b) Has acted contrary to an agreed-upon or Board-directed process.
 - (c) Has caused unreasonable delays, postponements, or expense.
 - (d) Has acted unreasonably or engaged in conduct worthy of an order to reimburse another person for costs and expenses incurred as a result of that conduct.
- 24.2 Where the Board does not otherwise direct, a request for costs must
 - (a) Be filed with the Board no later than 30 days after the date the Board provides notification of the Order in Council or refusal.

- (b) Specify the total sum sought for costs together with a description of how the amount is calculated and an itemized list of any expenses sought to be recovered.
- (c) Specify the reasons why an award of costs is appropriate in the circumstances.

25. Access to Board Reports

- 25.1 The Board's written report to the Minister under section 123 of the Act will not be published or provided to hearing participants, including the initiating and responding municipality, unless authorized by the Minister or required pursuant to section 124.
- 25.2 Unless otherwise directed by the Minister, reports made pursuant to section 123 will be deemed authorized for disclosure after the annexation order has been released. At that time, the Board may publish its reports or have them published in any form, including posting them on the Internet.

26. Access to other Board Records

- 26.1 The Board will not make available an annexation application that can be viewed at the initiating municipality.
- 26.2 Other records that have been filed with the Board for an annexation hearing will be made accessible for viewing at the MGB office in Edmonton, subject to
 - (a) Restrictions imposed by Board orders, freedom of information and protection of privacy legislation or other legal restrictions, and
 - (b) Payment of any prescribed fee if copies are required following viewing.

Appendix "A"

Notice of Annexation Application

Please indicate whether the initiating and responding municipalities and the public are generally in agreement with the application for annexation.

A copy of this form should be attached with your annexation application together with the material marked with an ✓ in the corresponding column below:

Yes (There is general agreement)

No (There is no general agreement)

Item	No General Agreement	General Agreement
A clear statement that the initiating municipality wishes to proceed with the annexation and intends the report to become the application for the annexation.	✓	✓
Application Fee (Cheque payable to the Government of Alberta) \$300 for first quarter; \$50 for each additional qtr. or portion of qtr.	✓	✓
An up-to-date map showing the location of the existing municipal boundary and the proposed municipal boundary, with each parcel to be annexed identified by legal land description.	✓	✓
All relevant sections of any Municipal Development Plan or other Statutory Plan.	✓	
A description of the intended uses for the annexation area including a description of how the area can be serviced with water, sewer, storm sewer and other related municipal services.	✓	✓
The signed consent, without conditions, of each owner of land that is within the intended annexation area.		✓
A signed acknowledgment from each owner of land that is within the intended annexation area that they are aware of and accept all assessment and taxation conditions.		✓
A letter from the responding municipality written on municipal letterhead and signed by an appropriate municipal official that <ul style="list-style-type: none"> • Certifies agreement to the annexation. 		✓

Item	No General Agreement	General Agreement
<p>A letter from the initiating municipality written on municipal letterhead and signed by an appropriate municipal official that</p> <ul style="list-style-type: none"> • Certifies there are no known objections from the general public. 		✓
An explanation of the consultation process followed.	✓	✓
An explanation of any differences between the public consultation process followed and that proposed in the notice filed with the Board under section 116.	✓	✓
A clear identification of which boundary roads are to be included or excluded in the annexation.	✓	✓
Up-to-date copies of land title certificates for each parcel proposed to be included in the annexation. The certificates must have been issued within six months of the Board's receipt of the application, unless otherwise agreed to by the Board.	✓	✓
A list of the names and mailing addresses of each landowner (with their corresponding parcel identified) and any other person known to have an interest in the annexation proposal.	✓	✓
The proposed effective date of the annexation. If this date is retroactive to the anticipated annexation order, an explanation as to why a retroactive date is necessary.	✓	✓
Identification of whether any special conditions are requested, such as assessment and taxation provisions, compensation or revenue sharing.	✓	✓
Reference to any other relevant matter which arose during the annexation process prior to submission of the formal application.	✓	✓
Confirmation of involvement of other public interests, including Alberta Transportation, schools, and utilities, etc.	✓	✓
<p>List of the affected local authorities (as defined under section 1(1)(m) of the Act) to which the applicant has provided a copy of the application pursuant to section 119(1) of the <i>Act</i> including</p> <ul style="list-style-type: none"> ◆ Municipal authorities, ◆ Regional health authorities, regional services commissions, and ◆ Boards of trustees of the local school district(s) or division(s). 	✓	✓

Item	No General Agreement	General Agreement
An explanation of how the proposed annexation addresses each of the principles listed in Appendix "B".	✓	✓
An explanation of any agreed-to compensation agreement.	✓	✓
Financial Analysis.	✓	✓

Appendix "B"

Annexation Principles

Annexation applications should include information to show how the following considerations have been addressed:

1. Intermunicipal cooperation.
2. Accommodation of growth by all municipalities.
3. Recognition of local autonomy.
4. Land requirement considerations such as
 - Growth projections,
 - Available lands within the current boundaries,
 - Density levels,
 - The variety of land uses, and
 - Reasonable growth options.
5. Logical extension of growth patterns, transportation and infrastructure servicing.
6. Cost effective, efficient and coordinated approach to the administration of services.
7. Sensitivity and respect for key environmental and natural features.
8. Alignment with statutory plans, infrastructure plans, and economic development plans.
9. Financial impact on the initiating and the responding municipalities.
10. Agency consultation.
11. Reasonable solutions to impacts on property owners and citizens.
12. Public and landowner consultation process.
13. Justification for suggested intermunicipal revenue sharing/compensation.
14. Rationale to establish the annexation is not simply a tax initiative.
15. Conditions of annexation that are certain, unambiguous, enforceable and time specific.