

A Guide for Municipal Boundary Alterations (Annexation)

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This Guide will be updated as required.
Please check the website for the most
recent version.

A Guide for Municipal Boundary Alterations

Why Focus on Municipal Boundary Alterations?

The province's goal is to foster and encourage economic growth and to reduce barriers that may delay or prevent the growth of urban and rural communities.

Boundary Alteration (also referred to as 'annexation') is the legal process of altering the corporate boundaries of municipalities through a transfer of administrative functions and municipal jurisdiction to accommodate economic growth and development opportunities and to provide services to newly developed properties.

The process of boundary alteration can affect the entire community - institutions, organizations, community groups and citizens. While both municipalities may want their development interests protected to serve the interests of their individual municipality it is important to consider what is best for a community, the region and the province as a whole.

The majority of boundary alterations are straight forward and agreed to by both municipal councils. However, occasionally the affected councils reach an impasse which results in no agreement. Disputed boundary alteration proposals go to the Saskatchewan Municipal Board (SMB) for adjudication.

Experience shows best results are achieved when people work together. This requires cooperation, mutual respect, communication and an understanding of all parties' positions in order to forge a partnership and an agreement that addresses both municipalities' needs and the needs of the broader community.

ABOUT THE GUIDE

This Guide has been developed by the Ministry of Government Relations to increase understanding of the boundary alteration process that is established in legislation and policy and to provide relevant information, resources and municipal best practices relating to the boundary alteration process.

Through the use of this guide, it is hoped municipalities are more likely to:

- Develop a better understanding of the boundary alteration process and procedures;
- Engage their municipal and community partners early in the development and planning process and identify the role that each can and must play;
- Develop a better understanding of the nature and causes of conflict in the boundary alteration process and the importance of communications and planning; and
- Make more enlightened decisions as to what actions should be undertaken and measure their impact.

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This version of the guide has been updated to incorporate the Principles for Financial Settlements Between Municipalities for Boundary Alterations (the Principles) developed in collaboration with the Saskatchewan Urban Municipalities Association (SUMA) and the Saskatchewan Association of Rural Municipalities (SARM). They are overarching Principles for use by municipalities when determining annexation compensation. The Principles will also be considered by the SMB when adjudicating boundary alteration disputes that come before the board.

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EXECUTIVE SUMMARY

Boundary alteration (also referred to as ‘annexation’) is the legal process of altering the boundaries of municipalities through a transfer of administrative functions and municipal jurisdiction. The transfer of land is typically contiguous to existing municipal boundaries and may be used to accommodate growth and to provide services to newly developed properties. The boundary alteration process is typically triggered by a city or urban municipality that needs land to expand. However, rural municipalities also have the same authority to initiate a boundary alteration. Thus, boundary alterations are important for community, regional and provincial growth (see page iii *Process for Boundary Alterations* for more details).

This guide has been developed as a practical tool to provide information and resources about municipal boundary alterations.

Municipal boundary alterations can present important challenges for municipalities when affected councils cannot reach an agreement. While municipalities are free to negotiate boundary alterations in good faith for any reason deemed appropriate, it is *good faith* that provides the foundation for a successful boundary alteration process. Experience shows best results are achieved when people work together. This requires cooperation, mutual respect, communication and an understanding of all parties’ positions.

Conflict over boundary alterations or an inability to reach a decision can lead to lengthy time delays which can delay development. While all municipalities want their development interests protected, municipalities may need to re-examine individual positions and consider what is best for a community, the region or the province as a whole. When neighbouring municipalities grow and prosper, the region typically benefits as people tend to live their lives regionally.

Identifying what will best foster regional growth should be an important factor when considering whether a boundary alteration is appropriate. It is important to look at the benefit of developing a partnership approach to boundary alterations. A partnership approach is an efficient and effective way to align the agreement with community values and reach a more mutually acceptable solution.

A process for dialogue prior to boundary alterations and throughout the development process helps to improve intermunicipal relationships and outcomes. Municipal councils and officials can play an important role in the process by developing an ongoing relationship with neighbouring municipalities and opening the channels of communication. This often improves economic and social benefits for all parties. By establishing a positive relationship, there will be better support and understanding of each other’s goals. Open dialogue coupled with genuine commitment and respect are key to successful intermunicipal

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relationships and can help reduce conflict when negotiating settlements. The municipalities involved in the boundary alteration are in the best position to resolve issues and decide on the best solution.

Municipal and Regional planning are another important tool. Proper planning supports the development of environmentally, economically, socially and culturally sustainable communities. It seeks to enable co-operation between municipalities within planning districts and with other jurisdictions and agencies to deliver services and infrastructure development. It is also one of the key items the Saskatchewan Municipal Board (SMB) considers when rendering a decision on a boundary alteration proposal. Where there is no plan for growth, it is more difficult to prove that a boundary alteration is necessary to support proposed growth.

The Official Community Plan is the recognized statutory document guiding and identifying the growth management strategy for a municipality. Community growth should be orderly and beneficial not only to municipalities, but also to the region and its residents.

The goal of a successful boundary alteration is to reach a consensus between the two municipalities preferably through a voluntary annexation agreement and without the SMB's involvement. This essentially enables decisions to remain at the local level so an application for alteration of boundaries can be directed to the Minister of Government Relations with complementary council resolutions rather than to the SMB if agreement isn't reached.

A boundary alteration agreement may address issues of concern to both municipalities. Cities, urban municipalities and rural municipalities have a responsibility to their own residents and to other parties to negotiate in good faith. Continued disagreements between municipalities can result in delayed boundary alteration agreements and can discourage or delay investment opportunities within the region.

However, in some cases it is difficult to convince municipalities involved to consent to the proposal. In this case, the proposal is submitted to the Municipal Boundary Committee of the SMB. When a case is in dispute the committee will hear and decide applications within a period of no more than four months.

The Principles for Financial Settlements Between Municipalities for Boundary Alterations were developed to assist municipalities in determining their own mutually acceptable agreements on financial compensation respecting boundary alterations. However, they are also intended for use by the SMB for cases where voluntary agreement has not been reached between municipalities on boundary alterations. As such, they will be used as guidelines since the SMB is required to consider boundary alteration applications on a case by case basis on their own merits.

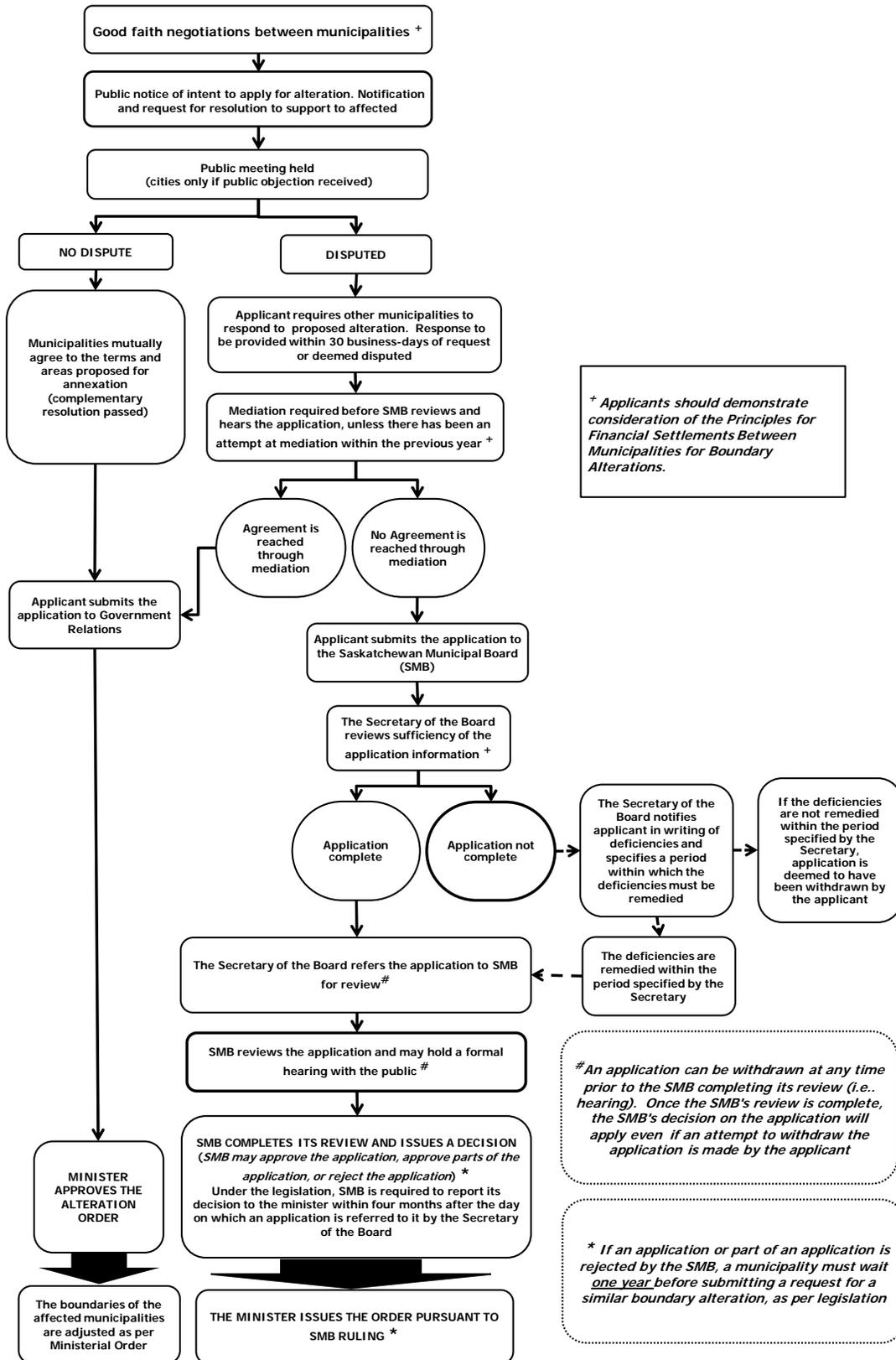
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The SMB has a webpage that includes information for municipalities about the application process and the policies and procedures for municipal boundary alterations. For more information, go to www.smb.gov.sk.ca/municipal_boundary.htm. It also provides helpful answers to common questions regarding boundary alterations that may be of assistance.

The following chart outlines the boundary alteration process for both the scenario involving an agreed to (undisputed) application which is most typical and the process for parties who cannot reach agreement and must submit an application to the SMB for adjudication.

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Process for Boundary Alterations update



1. INTRODUCTION

1.1 Overview of Boundary Alterations

Municipal boundary alterations can present important challenges for municipalities. Municipalities can meet these challenges if they work in active partnership with each other.

Boundary alterations may be proposed for any reason however, they are best proposed in conjunction with a community's Official Community Plan. Before taking action it is essential for the parties to develop an understanding of the nature of and reasons for the boundary alteration request and the conflict that may potentially result.

1.2 Boundary Alteration Trends

There have been 159 annexation cases in Saskatchewan since 2004. Out of 159 cases, 88 per cent (140 cases) have been successfully completed without intervention from the SMB. During that same period, 19 cases (12 per cent) were forwarded to the SMB. Of those 19 cases, 11 cases were withdrawn and 7 cases (5 per cent) required adjudication by the SMB.

Information suggests the most successful boundary alteration requests are for smaller tracts of land (i.e. smaller incremental proposals) or for bare land (i.e. agricultural land) for future development. The most contested boundary alteration requests usually involve larger tracts of land (i.e. large increments of land) and/or requests including existing commercial or industrial property.

Boundary alterations are generally initiated to provide a municipality with sufficient land for future growth (i.e. commercial, industrial or residential growth). Therefore, municipalities with a growth plan that ensure effective and efficient servicing of future development and that have previously worked cooperatively with the affected municipality, are generally the most successful when a boundary alteration is requested.

These trends can help identify issues and factors contributing to successful boundary alterations. Municipalities can develop an action plan tailored to local needs.

1.3 Boundary Alteration Issues

Recognizing there will be different opinions and positions is paramount. While municipalities are free to negotiate boundary alterations in *good faith* for any reason deemed appropriate, it is good faith that provides the foundation for the boundary alteration process.

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Boundary alteration proposals may result in surprises. Neighbouring municipalities may not be aware of another's intention to grow into its jurisdiction, particularly if there is no plan. Further complications arise when Official Community Plans are out-of-date, inconsistent or when development occurs in a rural area that restricts or prevents an urban neighbour from growing. Planning documents should be shared with neighbouring municipalities. Their review and input should be requested prior to any discussions regarding boundary alterations.

During the boundary alteration process conflict can occur because municipalities have different positions and interests. They may have different opinions about land use in a contested area or both may consider the desired land to be in their respective natural path of development. Improving communications and facilitating discussion can minimize conflict and improve working relationships. Municipalities need to be reasonable in their requests for land, linking the requests directly to what is needed in plans for future growth that is expected to occur within a reasonable time frame.

Conflict and lack of a decision can prove costly to municipalities. Delays in development may increase development and infrastructure costs, frustrate landowners and residents and eventually lead to a lack of investment by potential developers to develop in the region.

While all municipalities want their development interests protected, municipalities may need to re-examine individual positions and consider what is best for a community, the region or the province as a whole. When neighbouring communities grow and prosper, typically the region benefits economically as people tend to live their lives regionally. For example, growth within a municipality's vicinity may lead to regional economic benefits and may enhance opportunities for upgrading recreation and cultural activities. Identifying what will best foster regional growth should be an important factor when considering whether a boundary alteration is appropriate. For example, providing the infrastructure necessary to support growth may only be possible if land and associated property tax revenues are within an urban centre. The logical sequence of developing land can also affect the costs of servicing and benefits from growth.

Although most boundary alterations are settled amicably between municipalities, these disputes can hamper growth and a few end up at the SMB to settle. Growth can lead to an increase in municipal boundary alteration requests, some of which result in high profile disagreements, particularly in cases where compensation is in dispute.

Neither Saskatchewan legislation nor SMB policy provide guidance to municipalities on determining financial settlements for boundary alterations.

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The Principles for Financial Settlements Between Municipalities for Boundary Alterations were developed to reduce inter-municipal disputes by helping municipalities determine their own mutually acceptable annexation compensation agreements. However, they are also intended for use by the SMB for cases where voluntary agreement has not been reached between municipalities.

The SMB will use the Principles as a guideline to deal with annexation disputes related to financial settlement, in conjunction with the specific details of each situation.

1.4 Towards a Partnership Approach to Boundary Alterations

Boundary alterations work best if people work together. Negotiating any agreement when both sides hold different positions and values can be difficult. It is important to take stock of the costs of boundary alterations and the benefit of developing a partnership approach to boundary alterations.

Benefits from developing a partnership approach include:

- time saved;
- better working relationships;
- agreement more closely aligned with community values; and
- higher satisfaction with the agreement results.

Ultimately, who is better positioned than the people involved or the parties themselves to decide what is best for them? Locally resolved agreements are best. Differences need to be worked through.

It is important to recognize the key role municipal councils and their officials can play in this process and the economic and social benefits a partnership initiative could bring. Developing an ongoing, positive relationship with neighbouring municipalities can open the path of communication which will lead to better support and understanding of each other's goals.

A strategy for ongoing dialogue prior to boundary alterations and throughout the development process could improve intermunicipal relationships and outcomes. Such a strategy can include:

- increasing communication;
- negotiating to resolve different positions; and
- developing better understanding of how to resolve conflict constructively.

This can be modeled after existing, informal experiences of many municipalities in Saskatchewan. For example, some neighbouring urban and rural municipalities in Saskatchewan meet monthly to discuss common problems and

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outstanding issues. This provides an avenue for communication when the need to consider boundary alterations arises.

Municipalities can ask themselves some questions to assess how they are doing building an intermunicipal relationship that will facilitate positive results on issues such as boundary alterations. Some examples of these, suggested by a City Manager, are:

- Have you met with the neighbouring municipalities to discuss growth for the area?
- Have you shared your planning documents and asked neighbouring municipalities to comment?
- Have you considered a formal information sharing relationship with your neighbouring municipalities?
- Have you considered mutually beneficial policies and practices for both municipalities?
- Is your municipality being reasonable in the amount of land being considered for future growth?

Putting a partnership strategy in place requires municipalities to make strategic choices regarding boundary alterations. It requires everyone believing in the value of working together. It can facilitate better and more equitable boundary alteration agreements, increase the satisfaction of those involved with the boundary alteration agreement and improve the quality of a working relationship for future endeavours.

Government Relations has assembled information to provide resources to support your municipality as you build and develop ways to work effectively on boundary alteration as part of a partnership or collaboration.

The following information should help develop improved processes and provide information to build the skills required to better assess, negotiate and reach solutions faster and easier.

This guide is not intended to prescribe solutions instead it provides resources and information on topics that may be of assistance to municipalities.

For more information on the following subjects, see the appendices:

- **Negotiating Effectively and Tips for Successful Negotiations -** Introduces participants to the Principled, interest-based negotiation model and delves into communication skills. Based on the theory articulated by Harvard educators Fisher and Ury in their book *Getting to Yes*, it focuses on clarifying and understanding the issues, interests and feelings of parties involved in negotiation or conflict.

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- ***Finding Agreement and Resolving Conflict Constructively: A Collaborative Approach*** - This handout is designed to assist municipal officials gain an understanding of the sources of conflict, dynamics and attitudes and their impact on the conflict resolution process. The goal is to improve skills for better collaboration with others, resolve difficult issues and reach effective agreements.
- ***Mediation - Benefits and Processes Explained*** - In general mediation is a process in which the disputants attempt to settle their dispute. This information explains its benefits in terms of boundary alterations.

While there is always the possibility the boundary alteration application will need to be sent to the Saskatchewan Municipal Board for adjudication, this should be seen as a last resort. Instead, municipalities should make every effort to make decisions at the local level, as this will benefit them.

Ultimately it will be up to municipal leaders to promote and champion new methods and techniques. Municipal leaders must fully understand the impact of their actions on the economic and social development of their community.

Through the use of a number of key tools and new techniques municipalities can gradually develop a partnership and shared vision that can lead to better working relationships and partnerships that can result in long-term benefits.

1.5 Current Municipal Examples

Saskatchewan has had some great successes in boundary alterations. Here are some examples that have helped foster cooperation between municipalities. Ultimately municipal councils are encouraged to not only be leaders in their communities but also be leaders in partnership and collaboration with other municipalities.

The RM of Corman Park has had many successful boundary alterations, which could be attributed to their "Boundary Alteration Policy". The RM developed the policy and distributed it to the urban municipalities within the RM. This policy outlines the expectations of the RM and promotes open communication of urban municipalities' future growth initiatives with the RM. By communicating future growth plans over a five to ten year period the urban municipality and the RM are openly aware of any pending development of land and can prepare for upcoming boundary alterations that could occur as a result of these future developments. This type of initiative fosters open communication and cooperation between the RM and urban municipalities.

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In addition to the Boundary Alteration Policy the RM actively participated in one day sessions put on by the mayors of the surrounding urban municipalities where speakers come to present on and discuss themes of future growth and planning. Participation in these events assists in building ties among the RM and urban municipalities which leads to a degree of understanding when it comes to future planning and development.

The RM of Estevan and City of Estevan are another example of successful cooperation. The two municipalities developed a “City-RM Liaison Committee” which met on a regular basis to discuss and resolve issues between the two municipalities including boundary alteration. The committee was made up of two councillors from each council along with the city manager and the RM administrator. The use of this committee along with partnering on other recreation development initiatives helped build a respectful, cooperative relationship between the two municipalities.

Some municipalities employ techniques and attitudes towards boundary alteration that assist in forging partnerships making the process more cooperative. For example, some municipalities have chosen to focus on the theme of “finding solutions” to meet both municipalities’ requirements, as opposed to going into the process with solely their own interests in mind. Other municipalities have chosen to hire an outside consultant to evaluate the specific question and compare it to the rate of development on similar areas of land in order to calculate the overall tax formula. Having an outside source evaluate the land values and come up with an objective projection of taxation can help put everyone at ease.

2. PROCESS FOR MUNICIPAL BOUNDARY ALTERATIONS

Please note the information provided should be used as a guide and is not to be used as a substitute for the procedures in legislation. The description of the process has been updated to take legislative amendments passed in spring 2013 into account.

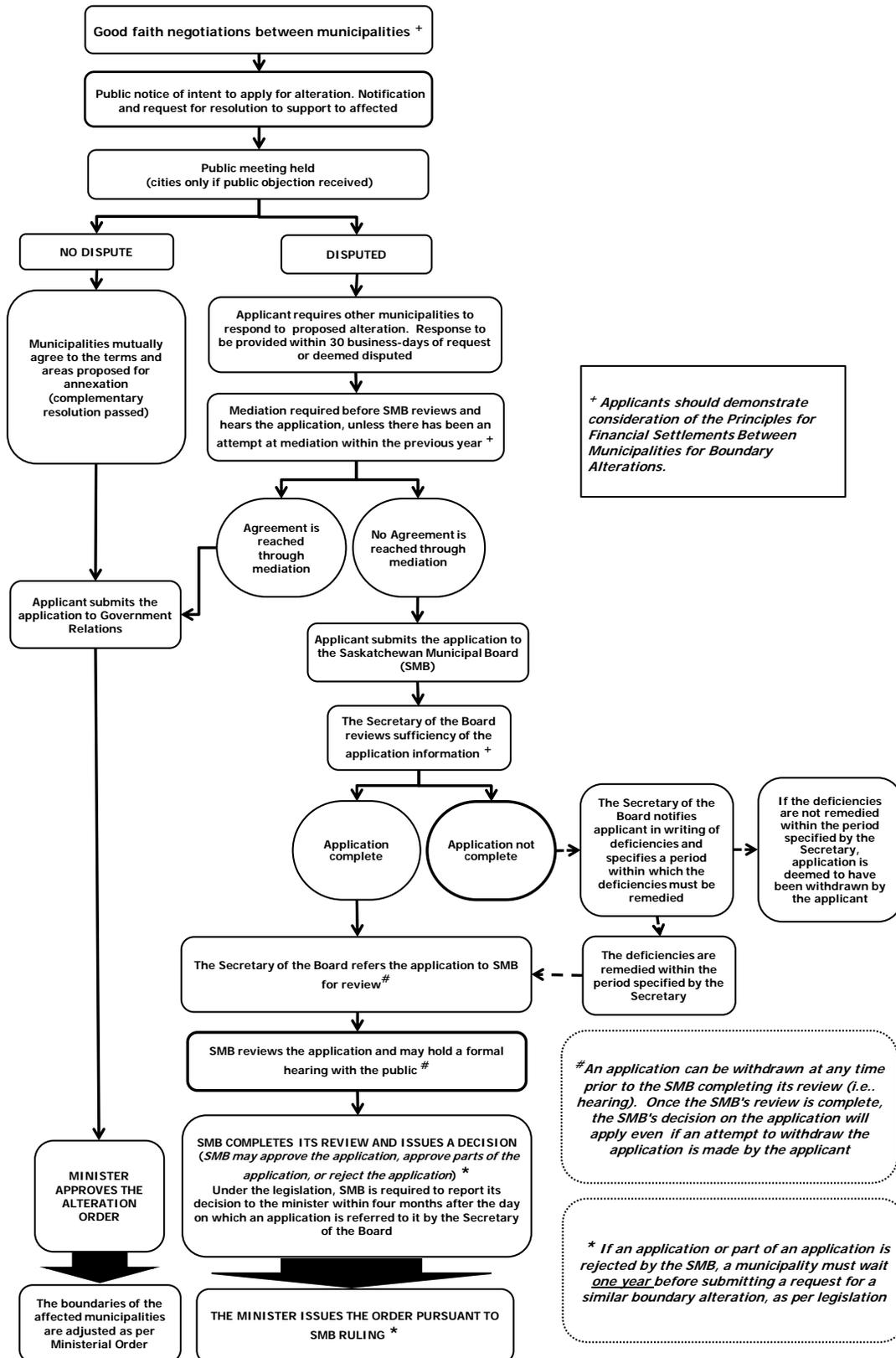
2.1 The Alteration of Boundaries

Boundary alteration is the process of altering municipal boundaries and transferring administrative duties and jurisdiction from one municipality to another. One of the municipalities involved makes an application.

The boundary alteration process is typically triggered by a municipality that needs land to grow and prosper. The following chart outlines the boundary alteration process for both the scenario involving an agreed to (undisputed) application which is most typical and the process for parties who cannot reach agreement and must submit an application to the SMB for adjudication.

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2.2 Boundary Alteration Checklist

Below is a checklist of all the documents needed for a boundary alteration application to the Minister. A more detailed List of Materials to be submitted is attached as Appendix F.

MUNICIPAL BOUNDARY ALTERATION APPLICATION CHECKLIST

- Application (prescribed form)
- A map or plan showing in detail the proposed alteration in boundaries including a legal description of the proposed boundary change, verified by the administrators of the municipalities affected by the proposal
- A certified copy of a resolution of the council requesting the proposed alteration
- A copy of the councils' reasons for its position in support of or in opposition to the application /statements of issues still in dispute or resolved
- A certified copy of a complementary resolution of the council of each municipality affected by the proposed alteration
- Copies of reports or records with respect to any attempt at prior mediation in relation to the application within the previous year (if applicable)
- Copies of public notices, any objections and minutes of public meetings in relation to the application
- An outline of plans for future growth or development of the municipality as a result of the boundary alteration
- A statement setting out the population, total taxable assessment, total number of dwellings and lots for each municipality involved in the boundary alteration is required (for the entire municipality). The number of dwellings, population and taxable assessment for the area being annexed is requested as part of the additional information form which should accompany an application form. (Population and dwelling unit data can be found from Statistics Canada Community Profiles website)

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2.3 Legislation

The Cities Act (CA), *The Municipalities Act (MA)* and *The Northern Municipalities Act, 2010 (NMA)* outline the boundary alteration process in Saskatchewan. Sections 43, 43.1 and 44 of the CA outline the steps for city boundary alterations. Sections 53 to 61 of the MA outline the steps for boundary alterations for town, village, resort village and rural municipalities. Sections 74 to 82 of the NMA outline the process of boundary alterations for northern municipalities. Section 18 of *The Municipal Board Act* outlines requirements for municipal boundary changes for boundary alteration applications received by the Saskatchewan Municipal Board.

Differences in Legislation

There are a few significant differences regarding boundary alterations among the three acts.

1. The CA sets out the process where the city is proposing the boundary alteration. The MA sets out the process where it is a town, resort village, village or rural municipality leading the process. The NMA sets out the process for northern municipalities (towns, villages and hamlets).
2. Under the CA, a public meeting is required only if there is public objection to the boundary alteration. Under the MA and NMA a public meeting is always required.
3. Under the NMA boundary alterations affecting the Northern Saskatchewan Administration District typically go directly to the SMB and are not subject to prior mediation requirements. Otherwise, the processes in the NMA are similar to those in the MA.

2.4 Preliminary Procedures

There are two key preliminary steps – consultations with the municipality affected by a proposed boundary alteration and consultations with property owners within the area of the proposed boundary alteration.

The council of the municipality that intends to apply for an alteration of its boundaries with an adjacent municipality should organize a meeting to discuss the terms and conditions of the proposal with the affected municipality.

Communication and good faith negotiations between the municipalities provide the foundation for the boundary alteration process. The affected municipality may request a voluntary agreement with the lead municipality to establish the terms of the boundary alteration. This could form the basis of

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complementary council resolutions that can accompany an application submitted to the Minister.

An agreement may address issues of concern to both municipalities. For example:

- costs and tax sharing arrangements;
- assets and liabilities;
- freezing of tax rates on the affected lands until further development or servicing is approved;
- servicing of the proposed development;
- issues related to development surrounding the urban municipality;
- future growth patterns; or
- any other matter related to the proposed boundary alteration proposal.

Not all of these items may be appropriate in all circumstances.

Currently there are no legislative provisions regarding financial or tax loss compensation. *The Municipal Board Act* refers to tax sharing. The responsibility to negotiate boundary adjustments remains at the local level. This enables municipalities to work out arrangements on a voluntary basis and to negotiate agreements that reflect the local situation and needs. Whether there is financial compensation for boundary alterations and how much, would be included in such agreements.

The Principles for Financial Settlements Between Municipalities for Boundary Alterations were developed to assist municipalities in determining their own mutually acceptable annexation compensation agreements. However, they are also intended for use by the SMB for cases where voluntary agreement has not been reached between municipalities.

The goal is to reach a local consensus relating to a boundary alteration. Cities or other urban municipalities and RMs have a responsibility to their residents to negotiate in good faith. Continued disagreements between municipalities can result in delayed boundary alteration agreements and can discourage or delay investment opportunities within the region.

The municipalities should also consult with the registered land owners of the area intended for boundary alterations. Discussions with owners may cover a variety of topics such as future taxation, servicing, land use and development and others.

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2.5 Principles for Financial Settlements Between Municipalities for Boundary Alterations

Growth in recent years has led to an increase in municipal boundary alteration requests, some of which have resulted in high profile disagreements. Some boundary alterations have been delayed due to inter-municipal disagreements, particularly in cases where compensation is in dispute. These disputes can hamper growth. Most boundary alterations are settled amicably between municipalities, but a few end up at the SMB to settle. Neither Saskatchewan legislation nor SMB policy provide guidance to municipalities on determining financial settlements for boundary alterations.

The Principles for Financial Settlements Between Municipalities for Boundary Alterations were developed in collaboration with the individual municipal associations, SUMA and SARM to reach consensus about how municipalities should work to resolve disputes over compensation. Both the SUMA and SARM Boards of Directors have agreed to the Principles. They are overarching Principles for use by municipalities for determining annexation compensation, rather than a prescriptive formula.

Municipalities are encouraged to enter into their own mutually acceptable financial agreements.

The SMB will use the Principles as a guideline to deal with annexation disputes related to financial settlement. However, for cases in dispute, the SMB will still consider each annexation application on its own merits on a case-by-case basis, as provided by legislation. The SMB will also encourage municipalities to use the Principles in coming to voluntary agreements and in mediation prior to SMB adjudication.

The eight Principles are:

1. More regional planning by urbans and bordering RMs should be undertaken to determine locations for growth, the need for future boundary alterations and to inform about municipalities' respective plans.
2. Municipal boundary alterations should be based on the substantiated need for land for growth and alignment with plans.
3. Determining the amount of a boundary alteration financial settlement should be evidence-based and done in good faith.
4. A financial settlement should acknowledge the net financial benefits for both the municipalities, and infrastructure investments that have been made.

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5. The boundary alteration financial settlement should not jeopardize the ability of either municipality to achieve the purposes of a municipality as provided for in legislation.
6. The purpose of property tax is to fund municipal services. Receipt of property tax from properties affected by a boundary alteration should be linked to the provision of municipal services to those properties.
7. The financial settlement should be based on present land use and circumstances and not be influenced by what future development may occur in the annexing municipality.
8. The financial settlement should only take future developments in the annexed municipality into consideration if the boundary alteration inhibits or transfers an imminent development.

See Appendix G for additional information about the Principles for Financial Settlements Between Municipalities for Boundary Alterations. Each Principle in Appendix G includes a set of related questions to give municipalities guidance in their use and to help explain how each Principle should be interpreted by rural and urban municipalities. The Principles can provide a policy framework for municipalities to reach voluntary agreements.

2.6 Public Consultation

Once a municipal council has passed a resolution to pursue a boundary alteration or has been sufficiently petitioned to apply for a boundary alteration, the council must prepare a notice to the public outlining its intention to apply for a boundary alteration.

Notice to the Public

The notice must be:

- published once a week for two consecutive weeks in a locally circulated newspaper; and
- personally delivered or sent by ordinary mail to:
 - each person assessed on the last revised assessment roll with respect to land or improvements located in the area affected by the proposed application;
 - the council of all involved municipalities affected by the proposal; and
 - the board of all school divisions affected by the proposal.

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The notice must contain:

- a map and description of the proposed boundary alteration;
- a brief explanation of the reasons for the proposal;
- a statement saying where the proposal may be examined;
- a statement saying that anyone who objects to the proposal may file a written objection clearly explaining their reasons for objecting to the proposal with the council within four weeks of the last publication of the notice (objections are to be received by the lead council); and
- the date, time and place of a public meeting that will be held by council to discuss the proposal. The meeting must be held at least one week after the day on which the notice was last published, delivered or sent.

For a sample Notice to the Public, see the attached sample in Appendix E.

Ideally, the list of persons to whom the notice is to be sent would come from the assessment roll provided by the municipality in which the land is located. However, if this is not available then a combination of names from the RM map, addresses obtained from www.411.ca and personal service should provide sufficient information to be able to comply with the notice requirements in the legislation (sections 43 of the CA, 56 of the MA and 77 of the NMA).

The Public Meeting

Pursuant to section 57 of the MA and 78 of the NMA council must conduct a public meeting. A public meeting is optional for cities unless an objection is received from members of the public (pursuant to subsection 43(3) of the CA). All of the material required to be included with the submission pursuant to section 59 of the MA and 80 of the NMA must be available for public review. The meeting must be held one or more weeks after the final publication of the notice. At the public meeting council shall hear all persons who wish to speak regarding the proposed boundary change. After the public meeting council may wish to reconsider its intention to annex lands.

See Appendix D for tips for holding a successful public meeting.

2.7 When Agreement is Reached Without Dispute

Municipalities may mutually agree to the terms and areas proposed for annexation (complementary resolution passed).

Application to Community Planning

If both municipalities agree to the boundary alteration the proposal must be submitted by the municipality seeking the boundary alteration to the Community Planning Branch of the Ministry of Government Relations. For information about

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what a complete application includes please view the Municipal Boundary Alteration Checklist at the beginning of the chapter.

Generally the application must include:

- a map of the proposed alteration of boundaries;
- a brief explanation of the reason for the proposal;
- certified copies of the council resolutions that support the boundary alteration;
- a summary of public meetings; and
- a copy of each submission received by council.

Community Planning Review

After a review of the submission and if the municipalities affected by the boundary alteration will be viable entities the boundary alteration may proceed. Community Planning is responsible for describing the new limit of the municipality although an acceptable description of the land(s) to be annexed is requested from the applicant municipality.

Role of the Minister

The Minister may make an order if a municipal boundary application is submitted with a complementary resolution from an affected municipality or if the SMB approves an application submitted without a complementary resolution.

Through a Minister's Order under section 44 of the CA, 61 of the MA and 82 of the NMA the Minister may:

- a) approve an application, subject to any terms and conditions that the Minister considers appropriate;
- b) approve parts of the application and reject other parts, subject to any terms and conditions that the Minister considers appropriate; or
- c) reject the application.

Terms and conditions the Minister considers appropriate are generally those already set out in the agreement between the municipalities. This could include tax sharing agreements and the extension of services or the continued maintenance of infrastructure agreements. The Minister could include other conditions. For example, if a body of water lay between the areas being annexed the Minister may feel it necessary for the annexing authority to provide a bridge over the body of water in order for the boundary alteration to be complete 

Consequences of the Minister's Order

Upon the effective date of an approving order the lands will transfer from the administrative jurisdiction of one municipality to another. From the effective date of the order all previous boundary description orders are repealed and the new

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boundary description of the annexed area is conclusively deemed to be the legal description of the municipality.

It is important to note that under subsection 63(3) of the MA and 84(3) of the NMA all bylaws and resolutions in force in the former municipality continue in force as bylaws and resolutions of the new municipality for the period of one year unless they are repealed or others are made in their place. There is no similar provision in the CA. In the case of planning and land use bylaws those made by the former municipality will follow the land until the annexing municipality amends its planning bylaws to ensure they appropriately cover the newly annexed area.

Additionally, pursuant to section 63(6) of the MA and 84(6) of the NMA when part of a municipality is annexed to another municipality and as soon as possible after the date of the boundary alteration, the administrator of the municipality from which the land is transferred must provide to the administrator of the other municipality that is gaining the land:

- a) a copy of the assessment and tax roll for the part of the municipality that is added to the other municipality; or
- b) a statement setting out the pertinent details of the information reflected in the assessment and tax roll for that part of the municipality.

If no municipality objects to the boundary alteration address the submission to:

The Minister of Government Relations
c/o Community Planning Branch (Regina)
420 – 1855 Victoria Avenue
REGINA SK S4P 3T2
Telephone: (306) 787-2725
Fax: (306) 798-0194

OR

The Ministry of Government Relations
Community Planning (Saskatoon)
978 – 122 3rd Avenue North
SASKATOON SK S7K 2H6
Telephone: (306) 933-6937
Fax: (306) 933-7720

2.8 Additional Items for Consideration

It is recommended that boundary alterations should follow surveyed lines (only take whole parcels). In addition, since boundary alteration involves municipal boundaries it is up to the municipalities to negotiate an agreement to address other local concerns regarding the boundary alteration.

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2.9 When Agreement is NOT Reached – Dispute Resolution and Mediation

Under subsection 43.1(10) of the CA, 59(1)(1.1) of the MA and 80(1)(1.1) of the NMA after a municipality has notified another municipality of a proposed boundary alteration a response is required to be provided within 30 business days of the request. If a response is not received within 30 business days the request is deemed to be in dispute and the applicant municipality can proceed on that basis (i.e. third party mediation, application to SMB).

If one of the involved municipalities does not consent or respond to the proposal under subsection 43.1(4) of the CA, 60(3) of the MA and 81(3) of the NMA before an application is submitted to the SMB for review pursuant to subsection 18(1) of *The Municipal Board Act* the SMB must appoint a mediator to assist the municipalities in resolving the matter in dispute unless there has been an attempt at mediation within the previous year. Municipalities are encouraged to attempt mediation prior to applying to the SMB. If none is attempted the SMB will appoint a mediator. All costs of mediation must be borne by the affected municipalities.

The Principles respecting financial compensation offer transparency and advance understanding for municipalities about how the SMB will review disputes pertaining to annexation compensation, if referred to the SMB for resolution. The Principles still leave the SMB with sufficient flexibility to address case-specific details.

The SMB will encourage municipalities to use the Principles for Financial Settlements Between Municipalities for Boundary Alterations (see Appendix G) in reaching voluntary agreements, and also in mediation prior to a SMB adjudication.

When Agreement is Reached Through Mediation

If mediation successfully resolves a dispute the application can be submitted by the municipality seeking the boundary alteration to Government Relations (refer to the Process 2.6, page 11).

When Agreement is NOT Reached Through Mediation

If one of the involved municipalities does not consent to the proposal and the mediation fails to resolve a dispute an application must be submitted to the Municipal Boundary Committee of the SMB which will review the proposal, hold a meeting and make a decision regarding the proposal.

Under subsection 18(1)(1.1) of *The Municipal Board Act* before an application is reviewed by the committee the secretary of the board must review sufficiency of an application information. If an application is complete the secretary of the

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board will refer the application to the committee. If an application is not complete the secretary of the board will notify the applicant municipality in writing of the deficiencies and specify a period within which the deficiencies must be remedied. If the deficiencies are remedied within the period specified the application will be forwarded to the committee for review. If the deficiencies are not remedied within the period the application is deemed to have been withdrawn.

After receiving a sufficient application the SMB committee will review the proposal and may hold a formal hearing which involves the public. An application can be withdrawn at any time prior to the committee completing its review. Once the committee's review is complete its decision regarding the application applies even if an attempt to withdraw the application is made by the municipality. The SMB Committee may approve all or a portion of an application subject to any terms and conditions it feels are appropriate.

Under subsection 18(11) of *The Municipal Board Act* the SMB is required to report its decision to the Minister within four months after the day on which an application is referred to it by the secretary of the board. The Minister will issue the Order pursuant to the SMB Committee's ruling.

For more information about the Municipal Boundary Committee, check out its website at the following link: www.smb.gov.sk.ca/municipal_boundary.htm.

Please note an application to the Municipal Boundary Committee varies from the application to the Minister so ensure that you follow the correct application process and requirements.

If any municipality objects to the boundary alteration, address the submission to:

Municipal Boundary Committee
Saskatchewan Municipal Board
Room 480, 2151 Scarth Street
REGINA SK S4P 2H8
Telephone: (306) 787-6244
Fax: (306) 787-1610

If the application to the Minister or the SMB is rejected the Ministry will cause notice of the decision to be published in a newspaper circulated in the area of the proposal. If an application or portion of an application is rejected no subsequent application that is substantially similar may be made for one year. This applies to all municipalities.

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3. ROLE OF THE SASKATCHEWAN MUNICIPAL BOARD

3.1 Boundary Alterations and the SMB

The SMB hears and decides intermunicipal disputes that arise from the alteration or restructuring of municipalities.

The Municipal Boundary Committee of the SMB reviews applications to alter municipal boundaries and amalgamate municipalities when there is no complementary resolution from the affected municipality(s) or when requested by the Minister. The committee is composed of full-time members of the board as well as part-time members who are nominated by the Saskatchewan Urban Municipalities Association and the Saskatchewan Association of Rural Municipalities.

When the SMB receives an application directly the committee may decide to hold a public hearing to hear and decide the matter in dispute. If the SMB receives the application from the Minister it must conduct a hearing.

The committee's role is to:

- hear and decide applications within four months from the time an application is complete; and
- provide information for municipalities and the public regarding the application process and the policies and procedures of the committee.

The SMB's webpage includes information about boundary alterations for affected municipalities. It can be accessed at:

www.smb.gov.sk.ca/municipal_boundary.htm.

It contains answers to common questions regarding boundary alteration and the SMB's process that may be of assistance. It also has links to the application form to use to submit a boundary alteration application to the SMB and the list of accompanying materials required.

Materials required to be submitted to the SMB in an application under the CA or the MA are listed in Appendix F.

3.2 Things to Consider

An application being reviewed by the committee has at least some point in contention where there is no agreement between the affected municipalities. Therefore, the information to support this review is different from the complementary application filed directly with the Minister.

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If the Minister refers the matter to the SMB under the CA, MA and NMA the matter may be assigned to a mediator appointed by the committee. If mediation is unsuccessful the committee is required to schedule a hearing to hear and decide the dispute.

Appendix C of this Guide describes the process and benefits of mediation in general. In addition, the “Commonly Asked Questions” part of this Guide includes more information.

The SMB will use the Principles respecting financial compensation as a guideline to deal with annexation disputes related to a financial settlement, and consider the specific Principles relevant to each situation.

The Principles offer transparency and advance understanding for municipalities about how the SMB will review disputes pertaining to annexation compensation, if referred to the SMB for resolution. The Principles still leave the SMB with sufficient flexibility to address case-specific details.

The SMB’s use of the Principles as a guideline will not fetter the board’s discretion, because the SMB must consider each case based on its merits and the facts of a particular case. Guidelines cannot be binding and conclusive rules, but must be flexible enough to adapt to the facts of a case.

See Appendix G for the full set of the Principles for Financial Settlements Between Municipalities for Boundary Alterations.

The board has initiated the use of staff from the Dispute Resolution Office of the Ministry of Justice for informal negotiations between affected municipalities. This involvement has contributed to withdrawals of applications from the SMB when the municipalities reached a facilitated agreement. The costs associated with this involvement are the responsibility of the applicant municipality. Municipalities can suggest an alternative mediator.

An affected municipality is encouraged to contact the committee secretary at 306-787-2644 at any time in this process whether an application has been prepared and filed.

3.3 SMB Timelines

There are no legislated timelines for municipalities to submit an application to the SMB. However, under subsection 18(11) of *The Municipal Board Act* the SMB is required to report its decision to the Minister within four months after the day on which an application is referred to it by the secretary of the board. Note that an application will only be referred to the SMB committee if it is complete and after mediation has occurred.

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The SMB's process to consider and decide on an application and the four month time frame, only begins once a complete application meeting all of the statutory requirements has been received by the secretary of the board not when an incomplete application is submitted. Substantial time is sometimes consumed obtaining missing parts of an application from a municipality.

An application can be withdrawn at any time prior to the SMB completing its review. Once the boundary alteration is approved or rejected the decision is final and will apply even if an attempt to withdraw the application is made by the municipality. The SMB process and time frame may be extended by the Minister at the request of the SMB or a municipality.

If use of the land changes or the "footprint" of the boundary alteration application changes after submission of the application but before a hearing then the process starts over.

If an application is rejected there is a one year prohibition to file a substantially similar application to the Minister or the SMB under the CA, MA and NMA.

3.4 Key Factors in SMB Decisions

Subsection 18(4) of *The Municipal Board Act* outlines the factors used to evaluate municipal boundary changes when a request for boundary alteration is received by the SMB. These include:

- land use planning;
- tax sharing;
- local boards and commissions;
- municipal services;
- municipal capital works;
- mill rates and assessments;
- disposition of land or improvements owned by or leased to a municipality, local board or commission;
- disposition of assets and liabilities;
- municipal electoral boundaries;
- grants and other assistance from the Government of Saskatchewan or Government of Canada;
- local school divisions;
- transportation, communication and utilities and rates;
- local improvements in the area affected;
- hospital, library and other intermunicipal bodies;
- bylaws; and
- other matters the Minister or board consider relevant.

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The SMB considers and will expect to receive information related to all these factors however; each case is decided on its own merits. Emphasis on a particular factor may be greater for one case than for others.

For example, the consequences and costs of providing services to an area to be annexed might be considered. Boundary alteration to transfer lands may result in more revenue to a municipality but that revenue must be measured against the cost of providing services to the newly annexed area. Short and long-term costs and benefits must also be considered.

While legal precedents are not established by SMB decisions for boundary alterations it can be helpful to know the factors that influenced decisions by the SMB. Between 2000 and 2007 a critical factor the committee considered was land use planning for future growth and whether the land is imminently needed for development. Land use planning (documented by an official community plan) sets out a municipality's growth management strategy with regard to future land use, patterns of development, economic growth and provisions for public works.

For example, in 2007 an application to annex land by White City from the RM of Edenwold was denied because it did not reflect a need for increased demand for land. In contrast, in 2000 an application to annex land by White City from the RM of Edenwold was approved. The SMB stated a municipality must have sufficient developable land within its corporate limits to grow and prosper in an orderly fashion. The committee stated that for a request to be successful a municipality must demonstrate a shortage of developable land based on growth patterns and future expectations.

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4. PLANNING FOR GROWTH

4.1 Why is Municipal Planning Important for Boundary Alterations?

Municipal planning supports the development of environmentally, economically, socially and culturally sustainable communities. It seeks to enable co-operation between municipalities, within planning districts and with other jurisdictions and agencies in the delivery of services and infrastructure development. It is also one of the key items the SMB considers when rendering a decision on a boundary alteration proposal.

The reason the SMB considers planning documents when determining if a contested boundary alteration should proceed is to substantiate the need for the boundary to be altered to facilitate growth. It is important to understand statutory municipal plans. The Official Community Plan (OCP) is the recognized statutory document guiding and identifying the growth management strategy for a single municipality. The District Plan (DP) is a statutory document guiding development and intermunicipal planning for affiliated municipalities in a Planning District where such a district has been formed. This is key to the idea that community growth should be orderly and beneficial not only to the municipalities, but to the region and its residents.

In 2013, *The Planning and Development Act, 2007* (PDA) was amended to reflect government's commitment to increased regional planning and cooperation. The intent of the amendments is to create new tools for the Minister of Government Relations to facilitate planning for growth and to overcome difficulties between some cities and rural municipalities. The new legislation provides a new regional planning tool that facilitates development through a Regional Planning Authority (RPA) and regional plans. This will assist cities and surrounding rural municipalities to meet the economic development and planning challenges of growth, thereby creating more certainty for investment in the region. It will also help cities and surrounding rural municipalities address broader intermunicipal and regional capacity interests.

4.2 How does a Municipality Implement Plans for Growth Through Boundary Alteration?

An urban municipality needs to ensure it has clearly considered future growth requirements and locations in its OCP and has estimated when these areas will be required. Any municipality experiencing growth ought to have an OCP or DP and that plan, which should be updated regularly, should address the timing of growth. This is very helpful when applying for a boundary alteration. A critical component of any OCP is providing land use policies and identifying areas to meet defined growth demands. This involves planning the development of lands within municipal boundaries and identifying options and constraints for expansion

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beyond those boundaries where future growth is likely to exceed the capacity of the current jurisdiction lands.

When in effect, the SMB uses an OCP or DP for much of the case. Otherwise, the SMB falls back on the key factors specified in subsection 18(4) of *The Municipal Board Act* (listed previously) to make its decision. A municipality should consider these factors when preparing a boundary alteration application.

Policies coordinating land use and development, future growth patterns and public works with adjacent municipalities are advised for growing urban centers and their rural neighbours. In addition to a requirement that an OCP or DP address intermunicipal cooperation, *The Planning and Development Act, 2007* provides for either forming a district or entering an intermunicipal development agreement to address urban fringe development before it becomes a local political issue. Urban centers should identify their expected areas and directions for future urban growth, the types of land uses expected to be developed and the standards for infrastructure. With this information the rural and urban municipalities can have an informed discussion about how and where growth should proceed and what form(s) of development should or should not be approved in advance of a boundary alteration.

These growth areas and relevant policies should be reflected in the bylaws of both municipalities and may establish milestones that would be met prior to any boundary alteration applications. This process would allow both councils to negotiate acceptable areas or terms for the boundary alteration agreement without the necessity for external arbitration. This identification of future growth directions also gives rural municipalities sufficient notice of potential boundary alterations so they will be able to locate development they wish to service and tax outside of urban growth locations.

Planning is important from the perspective of both urban and rural municipalities. Each may be best suited to accommodate growth for specific types of land use. Some will be more suited to an urban context while others will be more suited to a rural area. Predictability and long term investment security is critical to most developers, whether they be urban or rural.

If greater attention was given to fostering or requiring communication between municipalities, the results may be beneficial. Our belief is that both municipalities must work together to achieve the necessary common ground. It is not only the city that must work towards the benefit of the entire community, but also the RMs that must endeavor to permit this unprecedented growth opportunity that is before us. While RMs must not stand in the way of growth, it must not be assumed that RMs are not capable of growth themselves, as many are...

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The notion that RMs must get out of the way and allow growth must be altered to allowing willing RMs to become a partner in growth on land within their jurisdiction if they are expected to accommodate growth.¹

A municipality may submit a boundary alteration application because of a specific land subdivision proposal or because a land owner asks for the change. Hopefully the OCP sets the context for the first of these situations. If not, it comes down to the key factors for the SMB to consider.

4.3 Critical Success Factors for the Boundary Alteration Process

Several factors are critical to appropriately planning urban expansion, including:

- having a current Official Community Plan, District Plan, or Inter-municipal Development Agreement;
- open and timely lines of communication with neighbouring municipalities;
- identifying growth areas in cooperation with neighbouring municipalities;
- establishing a locally agreed to dispute resolution or negotiating procedure; and
- agreement on taxes and fees to cover the costs of development.

Official Community Plan:

It is important to understand the purpose of boundary alteration is to enable community growth. An OCP is the recognized statutory document guiding and identifying the growth management strategy for a municipality. Where a municipality does not plan for growth it is much more difficult to prove to the SMB that a boundary alteration is necessary to support proposed growth.

District Plan:

Where a Planning District has been formed cooperation on development timing and locations as well as joint provision and payment for services should be resolved as part of the plan. The planning commission is always the first body to address and normally resolve intermunicipal land use issues.

Intermunicipal Development Agreement:

This tool provides a mechanism to formally address most issues that arise with growth and boundary alterations before they become critical issues.

Communication:

It is critical that neighbouring municipalities keep the lines of communication open. The most common issue leading to a boundary alteration dispute is a breakdown of regular communication leading to seemingly unforeseen surprises about municipal growth intentions. It is important to foster positive municipal relationships to achieve timely and desirable outcomes.

¹ Letter from Greg Hoffort, Administrator, RM of Estevan No. 5, September 8, 2010

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Growth Areas:

Open communication helps municipalities discuss various aspects of development in their communities including urban growth intentions. Discussing areas for future not immediate, urban expansion enables municipalities to mutually agree on areas to grow and reflect those land use patterns in their OCP.

This is very useful when considering development proposals as the rural municipality will know if the land is proposed for boundary alteration and what kind of development there will be in the future.

Local Procedures:

Knowing how to jointly work through a disagreement over growth issues with neighbouring municipalities is integral in order to be able to come to agreement. Any relationship can become strained at some point, and it is important to establish ground rules. Although the SMB can be sought out to arbitrate on various issues including boundary alteration, it is recommended that good faith negotiation, mediation or non-binding arbitration be considered at the local level first. Agreeing during the good times about how both municipalities will work through the bad times is an important part of retaining municipal autonomy and deciding the individual municipality's own future.

Taxes and Fees:

Negotiations should recognize the Principle that municipal taxes and fees are to pay for capital infrastructure and services and each municipality has a right to be recompensed for the costs of development it experienced. There are many forms of action possible to achieve this and boundary alteration is only one.

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5. ADDITIONAL RESOURCES

Below is a list of useful references and internet links for those who want to know more.

Saskatchewan Municipal Board Website:

www.smb.gov.sk.ca/

Saskatchewan Dispute Resolution Office Website:

www.justice.gov.sk.ca/disputeresolutionoffice

Training Videos on Dispute Resolution for Municipalities developed by the Government of Alberta (Municipal Affairs):

www.municipalaffairs.gov.ab.ca/ms/mediation/train/vid.html

Boundary alteration information available on the Ministry of Government Relations website:

www.saskatchewan.ca/government/municipal-administration/community-planning-land-use-and-development/municipal-status-and-boundary-changes/annexation

Official Community Plan information available on the Ministry website:

www.saskatchewan.ca/government/municipal-administration/community-planning-land-use-and-development/official-community-plan

Intermunicipal Working Groups website:

municipalcapacity.ca/inter-municipal-working-groups

Additional Information on Negotiating:

Roger, Fisher & William Ury. *Getting to Yes: Negotiating Agreement Without Giving In*. Second Edition. New York: Penguin Books.

Ury, William. 2007. *Getting Past No: Negotiating In Difficult Situations*. New York. Bantam Books.

Cohen, Herb. 1980. *You Can Negotiate Anything*. New York: Bantam Books.

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6. COMMONLY ASKED QUESTIONS

6.1 General Questions

Where can I find general information on boundary alteration?

At the Government Relations website:

<http://www.saskatchewan.ca/government/municipal-administration/community-planning-land-use-and-development/municipal-status-and-boundary-changes>

At the SMB website:

www.smb.gov.sk.ca/municipal_boundary.htm

Where can I find out where the boundaries of a municipality are located?

Each municipality should be able to tell you where their boundaries are. If not municipal boundary records are kept by the Regina office of the Community Planning Branch. Please call 306 787-2725 for more information. Additionally, maps are available from the Geomatics area of Information Services Corporation of Saskatchewan.

How do I get municipal boundaries changed?

Because boundary alterations involve the alteration of a municipal boundary only one of the involved municipalities may make an application. A landowner or other member of the public who desires land to be annexed into another municipality is encouraged to meet with each municipal council and discuss the proposal.

If both municipalities agree to the boundary alteration the proposal must be submitted to the regional Community Planning Branch. If one of the involved municipalities does not consent to the proposal an application must be made by a municipality to the Municipal Boundary Committee of the Saskatchewan Municipal Board.

What happens in a case where the land being annexed is not adjacent to the municipality requesting the boundary alteration?

Under the CA there is no reference that the land needs to be coterminous or adjacent however; the growth of cities depends on the provision of services which are typically built in a logical outward extension.

For towns and villages, the MA applies and indicates the land being annexed or restructured needs to be adjacent (see section 53[1][a]); however, it also provides an exemption if the two municipalities come to an agreement (section 53[2]).

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53(1) The Council of a municipality or the councils of one or more other municipalities may apply to the Minister, in accordance with the procedures set out in Division 2, to restructure by:

(a) adding territory to or withdrawing territory from the existing area of the municipality and altering the boundaries of any other municipality affected by the alteration, as long as the boundaries of any other municipality affected by the alteration are coterminous with the boundaries of the applicant municipality;

(b) merging the whole or any part of the municipality with any other municipality;

(c) providing for the inclusion of the municipality in any other municipality, including the establishment of the municipality as an organized hamlet within the rural municipality in which it is located; or

(d) incorporating new municipalities or other municipalities.

(2) A municipality and any other municipality may enter into a voluntary restructuring agreement for the purposes of an application pursuant to subsection (1), whether or not their existing boundaries are coterminous.

How are the boundary roads for areas to be annexed treated?

Section 67 of the MA sets out the manner in which municipal boundaries are established. The municipal boundary will include the road allowances bounding the south and west sides of an area to be annexed unless otherwise specified in the Minister's Order. Municipalities that wish to vary from this should describe the variations in the proposed annexation and public notice so they can be included in the Minister's Order.

Are boundary roads considered differently under *The Cities Act*?

The provisions of section 52(1) of the CA apply with the same effect.

6.2 Saskatchewan Municipal Board (SMB) Related Questions

What is the Municipal Boundary Committee?

The Municipal Boundary Committee is a committee of the SMB established to receive applications for the alteration of boundaries when the affected municipalities do not agree to the proposal or where the Minister requests that the committee review boundary alteration applications made to the Minister.

What happens once the application is filed with the committee?

When an agreement is not reached through mediation the municipality seeking boundary alteration can submit the application to the SMB. The secretary of the board (secretary) will review the application. If the application is not complete the secretary will notify the municipality in writing of the deficiencies and specify a period within which the deficiencies must be remedied. If the deficiencies are not

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remedied within the period specified by the secretary the application is deemed to have been withdrawn by the municipality. If the deficiencies are remedied within the period the secretary will refer the application to the committee members for review.

The committee may decide to meet informally with both councils without prejudice, to discuss the issues associated with the application. Sometimes it is appropriate for these informal meetings to be facilitated by other expert persons. Associated costs for the informal meetings are the responsibility of the applicant municipality.

The committee determines if it will review and decide the application with or without a public hearing.

If the committee holds a public hearing how are the affected municipalities and interested parties notified?

The affected municipalities and landowner(s) who may have land in the part of the RM proposed to be annexed will be notified in writing of the date, time and place of the hearing. As well, a notice of the public hearing will be published in a newspaper circulating in the area at least once a week for two successive weeks. The hearing is usually held in one of the affected municipalities.

Who sits on the Committee?

The committee is composed of full-time members of the board as well as part-time members who are nominated by the Saskatchewan Urban Municipalities Association and the Saskatchewan Association of Rural Municipalities. The part-time members of the board must be appointed by the Minister under subsection 18(3) of *The Municipal Board Act*.

Can interested parties make a presentation at the public hearing?

Yes.

Do you have to be a resident of the affected municipality/municipalities to make a presentation at the public hearing?

No. All persons who wish to make representations relevant to the application will be heard.

How long does the committee have to make a decision?

Under subsection 18(11) of *The Municipal Board Act* the committee is to make its decision or submit its recommendation in a report to the Minister of Government Relations within **four months** after the date a complete application is submitted or referred to the committee by the secretary of the board. The Minister may at the request of the committee or a municipality affected by a proposed alteration of boundaries, extend the time within which the committee is required to submit its report to the Minister.

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If the committee rejects a municipal council's application is there an avenue for further review?

There is no further review of a committee decision and no similar municipal boundary application may be filed for one year under the CA, MA and NMA.

If an application is rejected there can be no substantially similar application considered for one year under the CA, MA and NMA.

6.3 Mediation and Conflict Resolution Questions

What is mediation?

Mediation is a process where an impartial third party helps two or more parties discuss a dispute and work toward a solution that is acceptable to all parties. Under subsection 43.1(4) of the CA, 60(3) of the MA and 81(3) of the NMA before an application is submitted to the SMB for review pursuant to subsection 18(1) of *The Municipal Board Act* the SMB must appoint a mediator to assist the municipalities resolve the matter in dispute unless there has been attempt at mediation within the previous year. All costs of any mediation must be borne by the affected municipalities.

Mediation is not a substitute for legal advice. In most situations it is still advisable to consult a lawyer before and during the mediation process. It is also advisable to have a lawyer review any written agreement before it is signed. Unlike a judge or arbitrator the mediator does not decide the outcome of the dispute. Mediated agreements tend to succeed because they result from a process that allows parties to create their own solutions.

What are the benefits of mediation?

Dispute resolution can offer many benefits including:

- mutual satisfaction;
- effective results;
- enhanced communications between the parties;
- participants lead the process;
- efficient;
- confidential;
- broad range of disputes are resolved;
- cost-effective;
- improved partnership; and
- tailor-made solutions to disputes.

What questions should we ask to select a mediator for dispute resolution?

- What is the mediator's education and employment history?
- What type of mediation training has the mediator received?
- What mediation experience does the mediator have?
- Does the mediator belong to any professional associations?

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- Does the mediator adhere to a Code of Professional Conduct?
- Does the mediator co-mediate? If so, in what situations?
- How much does the mediator charge and on what basis? How is travel, administrative and clerical time handled?
- How long does the mediator expect the mediation to take?
- How long before the mediation can begin?
- Can the mediator provide references?

How do you find a mediator?

Here are some ways for you to find a mediator:

- Ask your lawyer to suggest a mediator.
- Look in the Yellow Pages of your local telephone book.
- Contact Mediation Saskatchewan and ask for a copy of their "Directory of Mediators" at 306-565-3939.
- Contact the Dispute Resolution Office, Ministry of Justice at (306) 787-5747 or disputeresolutionjustice@gov.sk.ca

For further information on mediation or conflict resolution, please refer to Appendices A through C attached to this document.

6.4 Principles for Financial Settlements Between Municipalities for Boundary Alterations Questions

What is the benefit for municipalities of using the Principles?

The majority of annexations are decided through voluntary agreements, but some end up at the SMB as disputed applications. The Ministry of Government Relations, the SMB and SUMA and SARM Boards of Directors agreed the Principles provide a framework to resolve financial settlement issues between municipalities themselves. Municipalities are free to do so outside of the new Principles; however, the Principles are intended to provide guidance not currently available through legislation or the SMB.

The Principles can be used by municipalities to help guide their negotiations to a mutually agreeable settlement without need for the SMB, if they choose.

The Principles offer transparency and advance understanding for municipalities about how the SMB will review disputes pertaining to annexation compensation, if referred to the SMB for resolution. The Principles still leave the SMB with sufficient flexibility to address case-specific details.

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What would be the benefit of the SMB adopting the Principles for Financial Settlements Between Municipalities for Boundary Alterations as a guideline?

The Principles will lend a level of consistency for municipalities' financial settlement negotiations and assist the SMB during dispute adjudication related to financial issues and annexations.

Although voluntary annexation agreements would not be required to use the Principles, municipalities would know what to expect at the SMB when negotiations have reached an impasse.

What is the purpose of the questions and responses following each Principle?

The Ministry of Government Relations and the SUMA and SARM Boards of Directors agreed to the Principles and their related questions/responses. The questions following each Principle are there to give municipalities guidance in the use of the Principles and to help explain how each Principle should be interpreted by rural and urban municipalities. The Principles can provide a policy framework for municipalities to try to reach voluntary agreements, which is currently lacking.

Will municipalities entering into voluntary annexation agreements be required to use the Principles to come to a financial settlement?

No. The Principles will be available to the municipal sector for consideration when negotiating voluntary annexation agreements; however, municipalities would still be free to negotiate mutually acceptable settlements outside of these Principles.

The SMB will encourage municipalities to use the Principles in reaching voluntary agreements, and also in mediation prior to a SMB adjudication. Municipalities will now know the SMB will use the Principles as a guideline to deal with annexation disputes related to a financial settlement that come before it for adjudication.

Has the ministry consulted the municipal sector on the Principles for Financial Settlements Between Municipalities for Boundary Alterations? What was the process for developing them?

Yes. The Principles are the result of many meetings with the municipal associations, SUMA and SARM. Both the SUMA and SARM Boards of Directors' have confirmed concurrence with the Principles.

How would the total financial settlements be determined under the Principles?

The exact amount of financial settlement will not be determined by the Principles. Rather, the Principles will provide a framework for what to consider when negotiating a financial settlement related to a boundary alteration.

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APPENDIXES

Appendix A

Negotiating Effectively and Tips for Successful Negotiation

This information sheet introduces participants to the Principled, interest-based negotiation model and delves into communication skills. Based on theory articulated by Harvard educators, Fisher and Ury in their books *Getting to Yes* it focuses on clarifying and understanding the issues, interests and feelings of parties involved in negotiation or conflict. This information can be found in Fisher and Ury's latest edition of *Getting to Yes* and their second publication, *Getting Past No: Negotiating in Difficult Situations*.

- ❖ There are 3 criteria for methods to negotiation:
 - Negotiation should *produce a wise agreement* if one can be reached;
 - Negotiation should *be effective*; and,
 - Negotiation should *improve the relationship* between the parties.

The “Principle Negotiation” or “Negotiation on the Merits” method aims to satisfy these three criteria.

- ❖ There are 3 stages during negotiation:

1. *Analysis:*

- Where participants diagnose the situation;
- Gather information, organize the information and think about it;
- Consider “people problems” such as partisan perceptions, hostile emotions and unclear communication; and
- Identify the interests of the other side.

After the analysis stage participants should reflect back and answer the following questions:

2. *Planning:*

- How do you handle the “people problems”?
- Of your interests, which is more important?
- What are some realistic objectives?

By answering these questions participants create strategies to deal with issues, prioritize their interests and come up with feasible objectives. Lastly, participants must use the above information to communicate towards an agreement:

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3. *Discuss*:

- Differences in perception, feelings of anger and frustration and difficulties in communication should all be addressed to assist in understanding.
- Both parties can jointly generate options that are mutually advantageous and seek agreement on objective standards to resolve opposed interests.

In light of these three stages there are four basic elements of negotiation that can be used to address each/all stages of the negotiation process.

❖ There are four basic elements of negotiation:

1. People “Separate people from the problem”

- Sometimes strong emotions can make communication difficult and more often than not people’s emotions can cause them to take hard positions or people’s egos can become identified with their positions. These positions make the challenges more difficult to overcome.
- Try to keep in mind that negotiators are people first and separate the relationship from the substance. Base the relationship on accurate perceptions, clear communication, appropriate emotions and a forward-looking, purpose-driven outlook.
- Tips to handling “people problems”:
 - If there are inaccurate perceptions look for ways to inform and educate the other side. Discuss each other’s perceptions but try to avoid assigning blame or pointing fingers.
 - If emotions run high you can find ways for each person involved to let off steam - try not to react to emotional outbursts. Try to recognize understand and acknowledge these emotions as legitimate so you can move on.
 - Where misunderstanding exists you can work to improve communication. Listen actively and acknowledge what is being said, speak to be understood, speak about yourself – not the other side and speak for purpose.
 - If you are having trouble understanding their issues try to put yourself in their shoes to gain some perspective and understand their point of view.

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- Give the other side a stake in the outcome by making sure they participate in the process - agreement becomes much easier if both parties feel ownership of the ideas.

2. Interests: Focus on interests, not positions

- Positions are often emotional and can lead to the “people problems” discussed above. Interests on the other hand, define the problem. Interests are made up of needs, desires, concerns and fears. In every interest, there may be several possible positions that could satisfy it and behind each interest is an alternative position.
- Behind opposed positions lie shared and compatible interests as well as competing ones. Shared interests could include both parties wanting stability or both being interested in establishing or maintaining a good relationship, etc. When weighing shared and divergent issues against one another getting to the objective (agreement) seems more manageable.
- Tips to identifying Interests:
 - Ask Why? Why not? For each position and think about the choices.
 - Realize each side has multiple interests and the most powerful interests are basic human needs.
 - Make a list of various interests on both sides. Be specific about what your side’s interests are and acknowledge what interests on the other side are creating problems.
 - Look forward not back and be concrete but flexible with your interests.

3. Options”“Generate a variety of possibilities before deciding what to do

- Four major obstacles that stand in the way of developing creative options
 - Premature judgment.
 - Searching for the single answer. There is no single answer so you limit your options by doing so.
 - The assumption of a fixed pie.
 - Thinking that “solving their problem is their problem” not yours. You need to think of a solution that appeals to both parties’ interests.
- To develop creative options you need to separate the creation of options from actual decision-making.

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4. Criteria: “Insist that the result be based on an objective standard
 - This approach is used to commit yourself to reaching a solution based on Principle not pressure. Concentrate on the merits of the problem. Be open to reason but closed to threats.
 - The more you bring standards of fairness, efficiency or scientific merit to bear on your problem the more likely you are to produce a final package that is wise and fair.
 - Types of objective criteria:
 - Market value;
 - Precedent;
 - Scientific judgment;
 - Professional standards; and
 - Costs.
 - Objective criteria should be independent of each side’s will, legitimate and practical.²

Finding your Best Alternative to a Negotiated Agreement “BATNA”

BATNA according to Fisher and Ury, is the standard against which any proposed agreement should be measured. It is the standard that can protect both parties from accepting terms that are too unfavourable and rejecting terms it would be in their best interest to accept. It is flexible enough to permit the exploration of other solutions.

Instead of ruling out solutions that do not meet your bottom line you can compare a proposal to your BATNA to see whether it satisfies your interests.

Developing a BATNA consists of three steps:

- 1) Developing a list of actions you might take if an agreement cannot be reached;
- 2) Improving some of the more promising ideas and converting them to practical alternatives; and,
- 3) Selecting, tentatively, the alternative that seems best.

Try to imagine what the other side’s BATNA may be. The more you know about their possible alternatives the better prepared you will be for negotiation.

² Roger, Fisher & William Ury. *Getting to Yes: Negotiating Agreement Without Giving In*. Second Edition. New York: Penguin Books.

Ury, William. 2007. *Getting Past No: Negotiating In Difficult Situations*. New York. Bantam Books.

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Appendix B

Finding Agreement and Resolving Conflict Constructively: A Collaborative Approach

This information sheet is designed to assist municipal officials gain an understanding of conflict sources, dynamics and attitudes and the impact this has on the conflict resolution process. The goal is to create skills for better collaboration with others, resolve difficult issues and reach effective agreements. The following information can be found in Laurie Coltri's textbook, *Conflict Diagnosis and Alternative Dispute Resolution*.

There may be times when municipalities find themselves at a standstill in the boundary alteration process. When this happens it is important to look at:

- (a) How to diagnose the source of the conflict;
- (b) How to deal with the current conflict constructively; and
- (c) How to prevent future conflict.

How to diagnose the source of the conflict:

- Remember: there are usually multiple sources of any given conflict.
- There are many types of sources of conflict. It is important to identify the source(s) in order to deal with the conflict effectively and efficiently. See the chart below.

Conflict Source Identification Table			
Conflict Type	Explanation	Example	Useful Approaches
Control over Resources	Over the ownership or control of something of value.	Property/boundary issues	Most conflicts appear to be over resources, sometimes they can be resolved by dealing with deeper issues. Tactics such as "Expanding the pie" can be used.
Data-type conflicts	Conflicts over facts of a situation or law surrounding a situation.	Facts: Law: legislation/bylaws	Sometimes by satisfying the underlying interests of the disputants the need to resolve the factual issue is avoided. If not, they can be solved through fact-finding exercises. Usually these types of conflicts mask deeper conflicts. Disputants should educate themselves about the law and engage in Principled negotiation to

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Conflict Source Identification Table			
Conflict Type	Explanation	Example	Useful Approaches
			accommodate mutual interests.
Preferences and nuisances	Dispute over behaviour of one of the disputants.		Can lend themselves to creative problem solving that seeks to preserve the underlying interests of the disputants, but rearranges environment, modifies people's schedules, etc.
Communication difficulties	The meanings of language and behaviour may be misunderstood.		Become familiar with each other's cultural practices; use active listening, hire a mediator/use mediation techniques etc. to try and clarify communication and understanding.
Differences in conflict orientation	There are differences in the basic approach to relationships.	One disputant is cooperative, the other is competitive.	It helps to recognize the style of negotiation of each disputant. In this case the use of a mediator or mediation techniques may be useful to avoid communication breakdowns.
Values	Conflicts are over personal beliefs and deeply held values.		Can be resolved by agreeing to disagree about certain underlying values and moving on.
A threat to self-concept and world view	One disputant's viewpoint threatens the other disputant's central ideas.		Similar to value conflicts, it may be best to acknowledge the differing viewpoints and agree to disagree on certain things, while protecting the dignity of each disputant.
Structural and interpersonal power issues	A disputant perceives an unjust balance of power and struggles to rectify it.		Try to highlight the imbalance.
Differing attributions of causation	Each disputant believes that the existing state of affairs is due to a different cause and hence warrants a different remedy.		Some of these types of conflict are factually based, some are values conflicts; the most effective treatment depends on which kind of attribution conflict is involved.
Displaced Conflict	There is an unacknowledged conflict; the disputants		The underlying conflict needs to be determined and solved. A mediator

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Conflict Source Identification Table			
Conflict Type	Explanation	Example	Useful Approaches
	are disputing over something else.		or mediation techniques can be useful.
Misattributed conflict	There is an unacknowledged conflict; one disputant picks a fight with someone else.		The underlying conflict needs to be determined and solved. Often, the underlying conflict is a structural/power issue.

Source: Coltri, Laurie S. 2004. *Conflict Diagnosis and Alternative Dispute Resolution*. New Jersey: Pearson Prentice Hall.

How to deal with the current conflict constructively:

- Understanding the source of the conflict and possible approaches to dealing with it is the first step, following which, parties can try the following:
 - Seek a cooperative relationship;
 - Try to resolve conflicts fairly early, while the atmosphere is still cooperative;
 - Assess the levels of trust and develop strategies to increase or preserve it; and
 - Look for any impediments to resolving the conflict at hand, and try to address these impediments separately. These could include, but are not limited to:
 - Motivations to seek vengeance;
 - Meta-disputes;
 - Mistrust;
 - Different perceptions of reality;
 - Over commitment or entrapment;
 - Loss aversion;
 - Excluded stakeholders; and/or
 - Competitive culture/subculture.
- Consider the diversity of issues that may be at play in the conflict. These could include stereotyping, power and culture. The sooner these are addressed, the faster it will be to addressing the conflict itself.

How to prevent future conflict:

- To prevent future conflict, parties need to recognize the sources of the conflict they are dealing with and also the four basic Principles of negotiation: people, interests, options and criteria.³

³ Source: Coltri, Laurie S. 2004. *Conflict Diagnosis and Alternative Dispute Resolution*. New Jersey: Pearson Prentice Hall.

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Appendix C

Mediation Benefits and Processes Explained

In general mediation is a process during which the parties attempt to settle their dispute. Mediation is not a one-size-fits-all process and while it is conducted in a number of ways this handout will explain its benefits in terms of boundary alteration. The following information was adapted from Laurie Coltri's textbook, *Conflict Diagnosis and Alternative Dispute Resolution* and from the Government of British Columbia's Mediation office website.

What is Mediation?

Mediation is a type of assisted negotiation that uses a third party to help disputants negotiate. The parties retain the power to negotiate and decide on a settlement. The mediator is neutral and is only there to assist in the process of reaching a settlement.

Mediation:

1. Is Voluntary - No agreement is reached unless all participants agree.
2. Promotes Fairness - Participants have equal say in the outcome of mediation.
3. Fosters Cooperation - Participants work together to resolve issues and develop agreements which hopefully fosters constructive working relationships for the future.
4. Improves Communication – Creates opportunities for open, honest and respectful communication between participants so they can better understand and relate to each other's viewpoints.

Mediation results in:

- Time and Cost Efficiencies – saves cost and time when compared to other types of dispute resolution such as arbitration.
- Customized Agreements – that work for everyone.
- Mutually Beneficial Solutions – effective at preserving the parties' relationships as it finds agreements that benefit all.
- Follow Through – when people create their own agreements they are more likely to follow through.
- Long Lasting Agreements – agreements reached through mediation usually last over time and when future disagreements arise participants are more likely to use collaborative problem solving to work out their disagreements.

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There can be two kinds of mediation:

1. Facilitative mediation - where the mediator's primary function is to:
 - Promote effective negotiation by laying the ground rules for communication;
 - Help participants discover their interests and those of their counterparts;
 - Guide the parties in the steps of cooperative negotiation; and
 - Intervene at all stages of the process to keep the conflict as non-competitive as possible.
2. Evaluative mediation - the mediator works to close the gap between the demands of each party by:
 - Evaluating the merits, strengths and weaknesses of each party's position by communicating these evaluations to the parties.
 - Attempting to minimize the distances between the parties' positions and create overlap so an agreement can be found.

Mediation as a Process:

1. Mediator's opening statement – Introduces the process, establishes ground rules for conduct, reviews the agreement to mediate and confirms commitment to proceed.
2. Story development - Each party gives a synopsis of the facts of the dispute. The mediator then clarifies and frames the issues in terms acceptable to the parties.
3. Identifying and exploring interests – Using questions the mediator shifts the focus from positions to underlying interests and ultimately formulates a goal statement incorporating all of the interests identified.
4. Generate options – The parties list and evaluate options for satisfying as many interests as possible and thereby, reaching a settlement. There are two ways to generate options:
 - a) Simple - Deal with the option as a whole; or
 - b) Complicated - Go issue-by-issue.

Mediation requirement under the current Legislation:

Under subsection 43.1(4) of the CA, 60(3) of the MA and 81(3) of the NMA before an application is submitted to the SMB for review pursuant to subsection 18(1) of *The Municipal Board Act* the SMB must appoint a mediator to assist the municipalities in resolving the matter in dispute unless there has been an attempt at mediation within the previous year. All costs of any mediation must be borne by the affected municipalities.

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Consider mediation when:

- The people involved in the dispute are at least willing to meet and try to settle it;
- Parties want a flexible and informal process;
- No party can get away with simply ignoring the problem;
- Other options for resolving the dispute are unacceptable;
- Each party needs something from the other;
- Both parties have an interest in maintaining a relationship (business or otherwise) after the dispute is resolved;
- The dispute involves more than two people or businesses;
- The case is complex and requires a creative solution;
- The parties would prefer to settle the dispute in private; and/or
- There are clear issues to be resolved, such as those involving money, property, behaviour, rights or licences.

Mediation is not appropriate when:

- The parties to the dispute do not have the power to change things or to resolve the problem;
- Any of the parties are completely unwilling to consider working toward compromise;
- A party is challenging the validity of a law;
- An issue of law needs to be settled to govern future legal cases or serve as a legal precedent;
- People not directly involved in the dispute may be unreasonably affected by the outcome of mediation; and/or
- The issue is one that should be debated in the public eye.

Agreement to Mediate:

Once those involved in a dispute agree to mediate a written agreement will usually be made between the mediator and the parties setting out the rules and procedures to be followed during mediation. It is usually signed before or at the first mediation session.

Individual mediators often have their own form of agreement but most forms include:

- **Parties** - The names of all persons involved in the dispute.
- **Subject** - A very general statement of what the dispute is about.
- **Goals** - What you are trying to accomplish in the mediation.
- **Mediator's role** - The neutral and impartial role of the mediator.
- **Confidentiality** - Agreement that details discussed at the mediation cannot be used in court and that the mediator cannot be required to testify. The general rule is that negotiations in

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mediation are off the record. Records made during the mediation are confidential but original documents brought to the mediation to support an argument may later be used in court (the rules of court decide what is admissible as evidence if a legal dispute proceeds to court).

- **Full disclosure** - All relevant information will be made available to everyone involved in the mediation. Often it is most effective to agree to the exchange of information before the first mediation session.
- **Involvement of lawyers** - Agreement that parties may attend the mediation with legal counsel or that they have the option to obtain independent legal advice before committing to an agreement.
- **Fees and costs** - Agreement regarding how much the mediator will be paid, what the other costs will be and who will pay.
- **Voluntariness and ending the mediation** - Agreement that participation in the mediation is voluntary and that any party or the mediator, may terminate the mediation.

Mediation Preparation:

Think about some important questions before you go to the mediation:

- What is the best outcome that you could reasonably hope for?
- What is the worst outcome you should prepare for?
- What are you most concerned about and what can the other party do to respond to those concerns?
- What is the other party most concerned about and what can you do to respond to those concerns?
- What are your options if you do not reach a settlement in mediation?

Gather together any documents that you need to help resolve the dispute. This might include statements, invoices or photographs. Bring to the mediation the originals and copies for each party and the mediator.

Sometimes the mediator will ask you to provide him or her with a short summary report before the first session. It is likely to include:

- What you think needs to be resolved;
- The facts or circumstances that led to the dispute;
- What you and the other party disagree about and what you agree about; and
- What has already been done to try to settle the dispute (i.e. any court proceedings, negotiations or settlement proposals).⁴

⁴ Government of British Columbia. *Guide to Mediation*. www.ag.gov.bc.ca/dro/mediation-in-bc/#whatis

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Appendix D

Conducting a Public Hearing

Under *The Planning and Development Act, 2007*

This appendix outlines the requirements and process for conducting a public hearing for certain planning matters under *The Planning and Development Act, 2007* but the process can be adapted to boundary alteration public meetings.

Part A – Purpose

The Planning and Development Act, 2007 (the Act) requires a hearing be held as part of the adoption process for planning bylaws and for certain land use decisions. The purpose of a public hearing under the Act is to provide council with information so the council may make a fair and informed decision. Council must receive any written submissions and invite those persons in attendance to speak to the proposal under consideration. The submissions or representations may state opposition to the proposal, support for the proposal or identify specific concerns regarding parts of the proposal. In evaluating the submissions and representations, council should carefully consider the reasons given in support of a position.

When entering a bylaw hearing council must be prepared to listen and to be persuaded by valid arguments to approve, deny or alter the bylaw to the extent allowed in law. If the hearing is for a discretionary use, council must exercise the discretion to approve, deny or approve with conditions, after hearing the public input.

A hearing is not intended as a public relations exercise for council to justify, to answer questions about or to convince the public to agree with the proposal. For a council to do so would indicate council has already decided the issue denying the public a fair hearing.

Part B – Requirements to hold a hearing

A hearing is required under the Act where the following are being adopted:

- An official community plan, zoning bylaw or any amendment thereto.
- A bylaw to impose or amend development levies.
- A bylaw to sell or exchange dedicated lands (municipal or public reserves, buffer strips, walkways, etc.).

Coltri, Laurie S. 2004. *Conflict Diagnosis and Alternative Dispute Resolution*. New Jersey: Pearson Prentice Hall.

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- A resolution approving a discretionary use where a hearing is required by the zoning bylaw.

The Act requires that notice be given of the hearing date, time, location and procedure for a hearing in compliance with Part X of the Act and, in the case of a discretionary use, the wording of the zoning bylaw. Deviation from the notice requirements often voids any action taken on the proposal. (Refer to Notice requirements in the Act for bylaws and to the zoning bylaw for discretionary uses.)

Part C – Recommended Process

Most commonly the hearing is held during a council meeting and in council chambers but it can be at any other time and location as specified in the notice. The recommended process for the hearing is as follows:

- The hearing is open to the public and is held before council therefore a full council must be present (at least a quorum) with a member of council chairing the hearing.
- The chairperson formally opens the hearing. If the hearing is held during a council meeting the council must, by resolution, suspend the council meeting and move to enter the public hearing. The hearing should begin at the time specified in the notice.
- The chairperson must clearly identify the bylaw or matter for which the hearing is being held. Council may be considering more than one bylaw or use approval, etc. at any point in time and the bylaw number alone is not sufficient. Therefore, copies of the notice and bylaw or other public report, should be available to attendees and the chairperson should read a summary of the intent of the bylaw or proposal at the start of the hearing.
- If the matter is controversial and many persons have appeared for the hearing it is advisable that the chairperson establish the procedures to be followed in this meeting. (These often include recognition by the chair before speaking, time limits, procedures for presenting copies of written briefs if any, use of a lectern and the opportunity for council to ask the presenter for elaboration or explanation of matters presented.)
- The chairperson asks the gallery if anyone wishes to make a presentation. All those signifying they wish to speak are listed and heard in turn.
- Minutes must be taken and must summarize any verbal presentations.
- The chairperson asks the administrator to present any written representations received.
- The chairperson asks for further representations and if there are none, closes the hearing.
- If the hearing is held during a regular council meeting council then moves to resume the council meeting. Council then may enter debate on the subject of the hearing. Note: Some councils ask the public to leave at this point so they can discuss the matter in private. In most cases this is not proper or legal.

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Council meetings are to be open and public. There are rare cases where “in camera” council meetings may be needed but not for zoning or discretionary use decisions after advertising.

Hearings are often short with few if any, appearing to speak. However, if the hearing extends beyond a reasonable time council may, in order to accommodate all those wishing to speak suspend the hearing and set a time to reconvene at a later date. (No action on the bylaw is possible until the hearing is concluded). A council may also hold more than one hearing (if advertised). Some resort areas have held a hearing in the municipality and also held a hearing in a city where most of the ratepayers live.

Under the Principles of natural justice council must give fair opportunity for any person to be heard and give fair consideration to any comments received. The public hearing is an essential part in the process of the council's authority to manage the use of land.

For more information, contact the Community Planning Branch of the Saskatchewan Ministry of Government Relations:

Southern Region

Community Planning Branch
Saskatchewan Ministry of Government Relations
420 – 1855 Victoria Avenue
REGINA SK S4P 3T2
Telephone: (306) 787-2725
Fax: (306) 798-0194

Central and Northern Regions

Community Planning Branch
Saskatchewan Ministry of Government Relations
Room 978, 122 3rd Avenue N
Saskatoon SK S7K 2H6
Telephone: (306) 933-6937
Fax: (306) 933-7720

For subdivision application forms and more detail about the subdivision approval process and the municipal reserve options visit:

www.saskatchewan.ca/government/municipal-administration/community-planning-land-use-and-development/subdivision-zoning-and-land-use/municipalities-and-the-subdivision-process

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Appendix E

NOTICE TO THE PUBLIC

Pursuant to insert section and Act here, public notice is hereby given that the City/Town of name intends to restructure by adding the following lands from the Town/RM of name to the location.

The land to be added to City/Town of name is the insert legal land location here

(insert a map and legal description of land to be annexed here)

The reasons for the proposal are:

-

A public meeting will be held on time and date at location to discuss the proposal.

(The date of the public meeting must be at least one week after the date that the notice was last published, delivered, or sent.)

Any persons who wish to object to the proposed restructuring may file a written objection, stating clearly the reason for their opposition, with the administrator of the City/Town of name at the address below:

(the address of the initiating municipality)

A written notice of objection must be received by the administrator by _____, 20____. (The due date must be four clear weeks from last appearance of the notice in a local newspaper.)

The complete proposal may be viewed at the City/Town of name office between ____ am and ____ pm (list days the office is open).

(The information and documentation necessary for an application pursuant to section 59 of *The Municipalities Act* must be available for viewing during the notice period and for the public meeting.)

Dated at the _____ of _____, Saskatchewan, this ____ day of _____, 20____.

Name/Signature
Administrator

City/Town of name .

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Appendix F

LIST OF MATERIALS TO BE SUBMITTED

Materials required to be submitted:	<i>The Cities Act</i>		<i>The Municipalities Act</i>	
	Complementary Resolution from All Parties - to Minister	Lack of Complementary Resolution from All Parties - to SMB	Complementary Resolution from All Parties - to Minister	Lack of Complementary Resolution from All Parties - to SMB
Application (prescribed form)	√	√	√	√
Map showing in detail the proposed alteration in boundaries (under <i>The Municipalities Act</i> these must be verified by the administrators of the municipalities affected)	√	√	√	√
A brief explanation of the reasons for the proposal	√	√	√	√
Sealed certified copy of a resolution of the council requesting the proposed alteration	√	√	√	√
The councils' reasons for their positions in support of or in opposition to the application/ Statements of Issues still in dispute or resolved.	√	√	√	√
Sealed certified copy of a complementary resolution of the council of each other municipality affected by the proposed boundary alteration	√	√ (provided for those municipalities that have a complementary resolution)	√	√ (provided for those municipalities that have a complementary resolution)
Copies of reports or records with respect to any attempt at prior mediation in relation to the application within previous year	√	√	√	√
A legal description of any proposed boundary changes to the municipalities affected by the application and of the boundaries as changed by the proposal	√ (as part of detailed map)	√ (as part of detailed map)	√	√
Copies of public notices, any objections and minutes of public meetings in relation to the application	√ (if meeting required due to public objection)	√ (if meeting required due to public objection)	√	√
An outline of plans for future growth or development of the municipality as a result of the boundary alteration	√ (as part of reasons for proposal above)	√ (as part of reasons for proposal above)	√	√
A statement setting out the population, total value of taxable assessments and the number of dwellings and lots for each municipality and other municipality affected by the application			√	√

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	<i>The Cities Act and The Municipal Board Act</i>		<i>The Municipalities Act and The Municipal Board Act</i>	
	Complementary Resolution from All Parties - to Minister	Lack of Complementary Resolution from All Parties - to SMB	Complementary Resolution from All Parties - to Minister	Lack of Complementary Resolution from All Parties - to SMB
Materials required to be submitted:				
General data on the <u>identified property</u> including acres of land, permanent population, number of dwellings and lots, taxation and assessment information (<i>including mill rates and mill rate factors, base/minimum tax, taxable assessment by categories for all affected municipalities</i>), current zoning and planned future zoning		√		√
A list of services currently provided to the subject area by the applicant municipality		√		√
A list of services currently provided to the subject area by the affected municipality		√		√
A list of intended services to be provided by the applicant after the application approval		√		√
Any special arrangements currently existing between the affected municipality and the landowners involved		√		√
Any special arrangement between the affected municipality and the landowners involved proposed to exist after an application approval		√		√
Confirmation of publicized notices of intent and delivered notices of intent to alter the boundaries		√		√

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Appendix G

Principles for Financial Settlements Between Municipalities for Boundary Alterations

Each principle includes a set of related questions to give municipalities guidance in their use and to help explain how each principle should be interpreted by rural and urban municipalities. The Principles for Financial Settlements Between Municipalities for Boundary Alterations can provide a policy framework for municipalities to try to reach voluntary agreements.

1. More regional planning by urbans and bordering RMs should be undertaken to determine locations for growth, the need for future boundary alterations and to inform about municipalities' respective plans.

- a. What does this principle mean to municipalities? How should they interpret it?*
- clear regional plans would give future direction for urban and rural development;
 - regional planning needs to be an ongoing process;
 - regional planning makes good business sense;
 - look at future plans and opportunities for development; planning needs to be evidence-based – not speculative;
 - there needs to be a willingness to share plans and information between municipalities;
 - will result in fewer surprises about growth and boundary alteration plans between neighbouring municipalities;
 - plans can guide land use and infrastructure investment decisions prior to boundary alterations; these have an impact on the financial settlement;
 - evidence-based negotiations are required;
 - creates trust and improves relationships and mutual respect;
 - a focus on open communications, but not necessarily a push for a more formal planning commission.
- b. How would municipalities use this principle in reaching a financial settlement?*
- regional planning offers a way to share information, communicate better and build mutual trust;
 - it provides a basis for substantiating the need for boundary alterations;
 - good regional planning takes the surprises out of requests for boundary alterations and supports amicable financial settlements;
 - having a better understanding of future development would assist in settlements;

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- regional planning affects the financial settlement through infrastructure investment decisions, development standards used, compatibility of development, and impacts on assessment and taxation; each of these can have a bearing on reaching negotiated settlements;
- increased communication is needed between parties; building and maintaining relationships is required; regional planning contributes to this;
- look at development plans;
- rural plans may be less detailed than urban documents, but must be treated with equal respect.

2. Municipal boundary alterations should be based on the substantiated need for land for growth and alignment with plans.

a. *What does this principle mean to municipalities? How should they interpret it?*

- need is to be determined on a case-by-case approach; boundary alterations would proceed when applicant municipalities show they need the additional land to accommodate growth;
- the demonstration of need must be evidence-based (i.e. demographics, OCPs, infrastructure plans, land use plans, etc.);
- need could be based on the same types of evidence urbans would use to approve a new development;
- substantiating need is not “a plan on a napkin”; it shows a bonafide development interest, not a speculative proposal.

b. *How would municipalities use this principle in reaching a financial settlement?*

- the timing and magnitude of an annexation are driven by need, and this affects the financial settlement;
- information on need is time period specific;
- evidence should outline why and where growth will occur;
- evidence-based determination could include demographics, OCPs, infrastructure plans, land use plans, or other evidence the applicant municipality needs incremental lands;
- the interests of all parties need to be respected;
- determination of need and supporting documentation should be provided in good faith by both parties.

3. Determining the amount of a boundary alteration financial settlement should be evidence-based and done in good faith.

a. *What does this principle mean to municipalities? How should they interpret it?*

- a good faith process is demonstrated by: municipalities planning and working together; having an appropriate communication approach;

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looking for the potential for joint benefit of all parties; the proper timing of communications and engagement between parties (e.g. early discussions); annual meetings between parties; having regional plans; and showing an honest desire to come to an agreement;

- building relationships on a solid foundation of trust is vital to good faith negotiations;
- good faith has a legal meaning, encompassing: willingness to come to an amicable agreement, having an immediate symbolic benefit, honesty, no omissions, appropriate conduct of parties;
- evidenced-based means: actual and appropriate documentation of infrastructure investment/expenditures, an open books approach to sharing financial information on the impact of a boundary alteration on respective municipalities, amounts requested/offered for a financial settlement are not arbitrary;
- the financial impacts on both municipalities are considered.

b. How would municipalities use this principle in reaching a financial settlement?

- agreements and/or decisions should be made on a case-by-case basis;
- need to be able to quantify financial effects on both municipalities;
- examples of evidence-based documentation include: revenue and expenditure statements from both municipalities, SAMA's property assessment of annexed area, the infrastructure's net book value from the tangible capital asset register, engineering condition assessments of infrastructure, statements showing outstanding debt/loans/accounts payable and receivable related to the annexed land, etc.

4. A financial settlement should acknowledge the net financial benefits for both the municipalities, and infrastructure investments that have been made.

a. What does this principle mean to municipalities? How should they interpret it?

- there is a need to look at annexation impacts from the perspective of both rural and urban residents;
- the use of "net benefit" is appropriate because an annexation can benefit either municipality; for example, a rural might be better off from annexation by giving up land where servicing costs are greater than the RM's tax levied in the area;
- urbans may have a service-related need for the annexed area, but do not have a profit motive for annexation (i.e. there are no profits from providing municipal services);
- rurals are concerned the remaining rural ratepayers will bear extra cost due to lost revenues; not every tax dollar collected from a ratepayer goes directly to the level of services they receive;

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- the focus should be on an evidence-based approach to support infrastructure value; the settlement should include an accounting for past infrastructure investments by the municipality that had the property within its boundaries.

b. How would municipalities use this principle in reaching a financial settlement?

- infrastructure valuation should look at condition assessments, not just depreciated value (net book value);
- infrastructure compensation should consider multiple factors, including: utility, condition, tangible capital asset register value, depreciation, engineering condition assessments, sources of original funding, outstanding debt and/or loans related to the annexed infrastructure, investment in other RM infrastructure in support of imminent development in the annexed area, etc.;
- need to consider the impacts on the financial situation/position of both municipalities in terms of operating revenue and expenditure increases and/or decreases related to the existing rural services provided and the initial urban services required in the annexed area;
- the potential value/benefit of future development in the annexed area is not to be considered, except for “imminent lost opportunity”.

5. The boundary alteration financial settlement should not jeopardize the ability of either municipality to achieve the purposes of a municipality as provided for in legislation.

a. What does this principle mean to municipalities? How should they interpret it?

- each municipality has an obligation to meet the needs of residents and businesses for municipal services and infrastructure appropriate to their urban or rural context;
- the settlement should support the service needs and standards of residents in both municipalities;
- this Principle shows respect and demonstrates good faith by considering the impacts on each party;
- a settlement should not be detrimental to the functioning of either municipality.

b. How would municipalities use this principle in reaching a financial settlement?

- consideration by both parties of settlement terms and flexible compensation payments in terms of settlement amount and/or the time period for payment;
- the continuing ability of both municipalities to meet the service needs of all their residents and businesses may limit the settlement;

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- an annexation should not impact the finances of the annexed municipality to the extent that existing levels of municipal services could not be provided to its remaining ratepayers;
- the financial and service impacts on respective taxpayers from each municipality need to be considered.

6. The purpose of property tax is to fund municipal services. Receipt of property tax from properties affected by a boundary alteration should be linked to the provision of municipal services to those properties.

a. What does this principle mean to municipalities? How should they interpret it?

- needs to be applied on a case-by-case basis;
- the property taxes in the annexed area should be used to finance services to those annexed properties;
- the settlement shouldn't impose a burden on other ratepayers of the annexing municipality to pay for the annexation settlement and the subsequent provision of municipal services to the annexed area;
- many residents in an annexed area expect immediate new services; however, the residents need to be aware of the implementation plans related to timing and level of service provision in the annexed area;
- different levels of service can require different types of service delivery (e.g. RCMP policing versus a dedicated municipal police force).

b. How would municipalities use this principle in reaching a financial settlement?

- the expectation of property owners needs to be considered;
- impacted property owners need to be aware of the plans/timing of new or enhanced service provision by the annexing municipality;
- existing ratepayers in an annexed area may want/expect the urban service immediately; however, they should be aware that urban service and property taxation levels will be incrementally added;
- services in the annexed area should be funded by its ratepayers;
- taxpayers outside of the annexed area should not be unduly financially burdened by municipal growth within or attributable to the annexed area;
- property tax from annexed areas needs to be available to fund services.

7. The financial settlement should be based on present land use and circumstances and not be influenced by what future development may occur in the annexing municipality.

a. What does this principle mean to municipalities? How should they interpret it?

- annexation compensation should not take into consideration the future development of the annexing municipality.

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- b. How would municipalities use this principle in reaching a financial settlement?*
- a settlement needs to consider evidence, such as: land use plans, zoning, how far into the future development is, limited availability and suitability of land;
 - the determination of need is to be an evidence-based collaborative process;
 - the annexing municipality's future development cost would not be considered in determining the amount of the settlement;
 - any financial considerations for the annexing municipality should reflect both the initial urban services required to support the annexed area in its undeveloped or present state, and any new assessment and property tax implications on the annexed area.

8. The financial settlement should only take future developments in the annexed municipality into consideration if the boundary alteration inhibits or transfers an imminent development.

- a. What does this principle mean to municipalities? How should they interpret it?*
- "imminent" means a development process that has been started and/or for which there has already been filed a development proposal, not just an intent to develop;
 - it shows a bonafide development interest with some investments already made; not a speculative development proposal;
 - imminent development needs to be evidenced-based with official and appropriate documentation of investment/expenditures, not "a plan on a napkin".
- b. How would municipalities use this principle in reaching a financial settlement?*
- consideration needs to be given as to how imminent the project is in the area to be annexed;
 - the annexed municipality needs to provide evidence of a bonafide development interest before expecting any compensation for a lost development opportunity.