

INTERMUNICIPAL DEVELOPMENT PLAN

BETWEEN

THE MUNICIPAL DISTRICT OF PROVOST

No. 52



AND

THE COUNTY OF PAINTEARTH

No. 18



SEPTEMBER 2018

Municipal District of Provost No. 52 Bylaw 2279

County of Paintearth No. 18 Bylaw 663-18

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Definitions:

- “Act” means the *Municipal Government Act*, R.S.A. 2000, c. M-26, amended as of April 1, 2018.
- “Councils” mean the municipal councils of the County of Paintearth and the Municipal District of Provost.
- “Municipalities” refers to both the County of Paintearth and the Municipal District of Provost in conjunction.
- “County” means the County of Paintearth.
- “M.D.” means the Municipal District of Provost.
- “Plan” means this intermunicipal development plan.

1. INTRODUCTION AND OBJECTIVES

The M.D. of Provost and the County of Paintearth exist as border-sharing municipalities in East Central Alberta in a rural prairie landscape and have decided to provide for the long-term planning of rural lands within the two municipal districts. They also value the advantages of predetermining processes for land use and development where one municipality’s border areas are affected by the other’s new developments. Therefore, both of the Municipalities have decided to develop an intermunicipal development plan (IDP) to provide a predetermined framework to make long-term land use planning decisions.

IDPs are broad-based policy documents that strive for environmentally responsible development without significant unnecessary costs and unacceptable negative impacts on the Municipalities. This IDP will provide a platform to formalize the strong relationship between the M.D. and the County. By doing so, it is hoped that the potential for future disputes is minimized. However, if a future dispute does occur, the Plan also indicates the dispute resolution process is agreed upon by both Municipalities.

Land use planning decisions made by both Municipalities affect and influence one another. Prominent planning issues include conflicts between differing rural land uses and coordinating infrastructural improvements. Positive relationships will lead to sharing of resources, achieving economic development goals and more efficient municipal and community services. An IDP is arguably the most critical tool in initiating those advantages.

Municipal staff, Fringe Area residents, landowners, and businesses have worked together to develop the policies and land use map. Public input was sought on different occasions before the Plan was presented for adoption. The Municipalities believe the Plan will guide future growth and provide a forum for potential intermunicipal collaboration on a wide range of issues. To that extent, the County of Paintearth and the Municipal District of Provost intend to adhere to this intermunicipal development plan by achieving the following objectives:

- a) To protect existing land uses to prevent encroachment.
- b) To support reasonable and practical planning for future infrastructure needs.
- c) To implement fair and consistent regulations for properties on the boundary.
- d) To provide a framework of mutual cooperation and communication for the decision-making and resolution of planning and development matters.

- e) To engage in fringe reciprocity measures to ensure the interests of both Municipalities are acknowledged and accounted for.
- f) To ensure a transparent process and subsequent results for necessary stakeholders.
- g) To develop this IDP to provide clarity and continuity for future Councils.
- h) To value contributions from both municipalities and support from the taxpayers of both Municipalities.

2. PLAN INTERPRETATION

- 1. All words in the Plan shall have the same meaning as defined in the *Municipal Government Act*. For words not defined under the *Municipal Government Act*, their meaning shall be as is understood in everyday language.
- 2. The word “shall” is interpreted as meaning an obligatory direction.
- 3. The word “may” is interpreted as meaning a choice exists with no preferred direction intended.

3. MUNICIPAL GOVERNMENT ACT (MGA) REQUIREMENTS

As of April 1, 2018, the development and implementation of an intermunicipal development plan are mandated by the *Municipal Government Act* R.S.A. 2000, c. M-26 (as amended).

As established by the Act, an intermunicipal development plan is a statutory document and in accordance with Section 631 of the Act stating that:

631(1) Two or more councils of municipalities that have common boundaries [may], by each passing a bylaw [...], adopt an intermunicipal development plan to include those areas of land lying within the boundaries of the municipalities as they consider necessary.

In addition, **Section 631(2)** of the Act states that this Plan **MUST** address:

- (i) the future land use within the area,
- (ii) the manner of and the proposals for future development in the area,
- (iii) the provision of transportation systems for the area, either generally or specifically,
- (iv) the coordination of intermunicipal programs relating to the physical, social and economic development of the area,
- (v) environmental matters within the area, either generally or specifically, and
- (vi) any other matter related to the physical, social or economic development of the area that the councils consider necessary.

Following **Section 631(2)** of the Act, this Plan **MUST** include:

- (i) a procedure to be used to resolve or attempt to resolve any conflict between the municipalities that have adopted the plan,
- (ii) a procedure to be used, by one or more municipalities, to amend or repeal the plan, and
- (iii) provisions relating to the administration of the plan.

4. IDENTIFICATION OF FRINGE AREA

For all land descriptions – please refer to Appendix A contained at the end of this document.

All lands within a reasonable and finite distance of 1 mile on both sides of the shared border of the Municipalities were identified as the lands comprising the “Fringe Area”.

4.1 DISCRETIONARY LAND USE REGULATIONS FOR FRINGE AREA

Uses identified within both Municipalities’ Land Use Bylaws in regards to their District regulations are acceptable for review with no specific needs for exclusion. However, as noted in the M.D.’s Land Use Bylaw (Bylaw No. 2157), the requirement to rezone lands to accommodate substantive industrial development (i.e. the development of a WECS, etc.) in the Fringe Area will serve as an instance where future review and negotiation must commence if a circumstance arises that would affect the neighbouring Municipality in a positive or negative way. Furthermore, a few other discretionary land uses within the Fringe Area will trigger a more thorough review due to sensitivity and proximity to land uses within the neighbouring Municipality that would be affected by development in the Fringe. Therefore, such development in the Fringe Area that would adversely affect the neighbouring landowners in the Area must be placed under review by the necessary Council to provide discretionary judgement on the proposed land use in question.

5. LANDS WITHIN FRINGE AREA

5.1 AGRICULTURAL QUALITY

Both Municipalities have identified that the lands within the Fringe Area are marginal agricultural lands and indicate that no enhanced or special capabilities exist or are planned for such lands.

5.2 ENVIRONMENTAL SENSITIVITIES

Environmentally significant areas which are to require strict environmental impact considerations and close review of potential land developments are identified and listed as:

a) MD of Provost:

- As stated in the M.D.’s Land Use Bylaw (Bylaw No. 2157), the Development Authority of the M.D. may consider the environmental impact of any proposed development within the Fringe Area. The Development Authority may refer the proposal to a relevant provincial department for comment on the nature of the environmental concern. Where development is considered to have a significant environmental impact, the Development Authority may request the developer (which may be the neighbouring Municipality, in certain circumstances) to have an environmental evaluation prepared and submitted by an appropriate professional or undertake its own environmental evaluation regarding the proposed development. All costs associated with an environmental evaluation are the responsibility of the developer (again, which may be the neighbouring Municipality).

b) County of Paintearth:

- Similar to the M.D. of Provost’s process, the County of Paintearth’s Development Authority considers the environmental impact of any proposed development within the

Fringe Area. The County has identified in its Municipal Development Plan areas near/within the Fringe Area that are labelled Environmentally Significant Areas (Appendix B). From the MDP: *“It should be noted that the environmentally significant areas study was completed in 1988 and some parcels of land may no longer contain the features described in the study.”* The County’s process is to review developments on a case by case basis whereby the merits and land use of each individual application are weighed in relation to nearby or adjacent land uses to prevent adverse effects on neighbouring properties. It is also noted from within the County MDP that there are few, if any, Hazard Development Areas as identified on the attached map (Appendix C). When warranted, the County also requires that the developer may be responsible for completing and submitting an environmental assessment prepared by an appropriate professional at their cost.

5.3 TRANSPORTATION LINKAGES

Due to the alignment of the two municipal partners, the border roads of Range Roads and Township Roads are the responsibility of the M.D. of Provost.

However, any substantive development that would pose any change in normal traffic patterns for the neighbouring Municipality or would incur any infrastructural wear or damage to the neighbouring Municipality’s infrastructure shall be consented to by the affected Municipality prior to such substantive development taking place.

Therefore, it may be more relevant to sharing future developments further to the west side from the County of Paintearth outside of the 1-mile Fringe Area impacting these Rights of Way. Also, the Developments impacting the MD of Provost and the County of Paintearth arterial roads such as Township Road 400, 390, and others that are shared by the M.D. and the County may require further referral distances also.

5.4 BORDER DEVELOPMENTS AND PRIORITIES

Neither Municipality has any immediate/pressing planning or development priorities for the lands within the Fringe Area.

5.5 UTILITY SERVICING

Currently, there are no shared – or planned sharing of - utility services between the neighbouring Municipalities. Consequently, a shared agreement in regards to utility servicing between the Municipalities will neither need to occur currently or for the foreseeable future due to lack of demand and lack of population density in the Fringe Area.

6. LAND USE COMPATIBILITY AND ENCROACHMENT

As part of the mutual cooperation and respect for each Municipality's jurisdiction, potential land uses and developments must recognize and be sensitive to existing landowners, and incompatible developments are to be prevented. Ill-planned or uncoordinated planning efforts by either Municipality have the potential to cause conflict between rural fringe uses within the Fringe Area. Therefore, the importance of development consultation between the Municipalities is paramount

to alleviate conflict or tension between existing landowners. To this extent, the referral processes will ensure that proper and reasonable planning will occur through the development permit and subdivision approval process to limit the adverse effects of new developments on preexisting land uses.

Both Municipalities recognize similar land uses and rural activities due to their similar zoning of Agriculture Districts in the Fringe Area. Moreover, the Municipal District of Provost places immense importance on the conservation of agricultural land thus, those sensitive discretionary land uses identified in section 4.1, such as major industrial development within the Fringe Area that may cause significant effects to neighbouring landowners (i.e. WECS), would require mandatory consultation between the Municipalities before such development takes place. Additionally, both Municipalities shall support development within the Fringe Area provided that it:

- a) is based on an identified need
- b) is consistent with the overall planning strategy of the adjacent rural municipality, and
- c) is, where practical, directed to areas of non-productive agricultural land.

7. CONFINED FEEDING OPERATIONS (CFOs) AND NRCB APPLICATIONS

Due to the nature of large-scale feedlot and intensive livestock operations and the important issue of air quality and groundwater proximity, exclusion zones are acknowledged and identified for those operations falling under the jurisdiction of the Natural Resource and Conservation Board (NRCB) authority as established by the Agricultural Operations and Protection Act (AOPA) as well as for those operations which fall under the threshold of the NRCB limits, but still require a development consideration from the appropriate Municipality.

Keeping in mind the M.D. of Provost's development permit regulations in their Land Use Bylaw for the development of major industrial land use, the M.D. requires consultation and discretionary approval for the development of CFOs. Further, their Municipal Development Plan (MDP) (Bylaw No. 2132) mandates that any possibility of groundwater, well, or spring contamination by manure storage facilities shall be avoided thus, the protection of such bodies of water within the Fringe Area must be acknowledged and upheld by both Municipalities in the Area.

In regards to the County of Paintearth's policy towards to the development of CFOs that would raise special considerations within the Fringe Area, they have outlined in their Municipal Development Plan (Bylaw No. 539-04) that the development of CFOs in Environmentally Significant Areas (ESAs) would be grounds for special review and consideration due to the effects that a CFO would have on the ecological and biological nature of the area. Keeping this in mind, the County recognizes a large area of the Silver Heights watershed region and the Ribstone Creek as an ESA which crosses through the Fringe Area between the Municipalities at Township 384 between Range Road 83 and 82. Therefore, as indicated in section 5.7(a) of their MDP, the future development of a CFO in the Silver Heights watershed area or Ribstone Creek river valley, including within the Fringe Area, would be prohibited due to the proximity of the unique natural landscape and the reliance on this landscape for tourism and recreational pursuits.

8. OIL AND GAS OPERATIONS AND AER APPLICATIONS

Oil and gas operations in both Municipalities are abundant in number which, consequently, increases the need for intermunicipal collaboration and cooperation in regards to the management of energy resource development. With that being said, oil and gas operations are under the regulating authority of the Alberta Energy Regulator, as established by the Oil and Gas Conservation Act, which can create a potential for conflict within the Fringe Area for existing oil and gas facilities as well as the development of new facilities and operations.

With this potential for conflict, the necessity of this Plan is immense as it addresses the issuance of consents for road use, land access, and buried services crossing municipal infrastructure in the following manner:

Wherein an oil and gas installation is requesting access to lands within one municipality from the neighbouring municipality's rights of way, consent shall be issued by the municipality whose right of way is affected.

9. ADJUDICATION PROCESS FOR APPLICATIONS WITHIN FRINGE AREA

The IDP calls for the referral only of all subdivision, development, and planning applications within the Fringe Area, and in no circumstance will there be a need for joint review and adjudication. Therefore, the process of review and adjudication of applications is initiated and undertaken by the affected Municipality.

10. REFERRAL PROCESS FOR APPLICATIONS WITHIN FRINGE AREA

A pillar of a successful IDP is an open and thorough discussion of issues impacting the Plan Area. Future plans, studies, or their subsequent amendments will be prepared and implemented more efficiently provided there is good communication.

The referral areas for each municipality will be as follows:

Only those developments involving discretionary uses identified in section 4.1 above or those that involve shared transportation linkages or environmentally sensitive areas shall be referred to each municipality for comment and review prior to the respective municipal adjudication process.

The referral process will be as follows:

1. The Municipality proposing development requiring special discretion in the Fringe Area shall share information, data or studies, and road plans that may have implications for the Area to the affected Municipality.
2. The proposing Municipality shall refer to other possible proposed statutory plans, concept plans, land use bylaws and amendments to any of these documents where such proposals may affect land within the Fringe Area.
3. The affected Municipality shall have twenty-one days to review and comment on any referrals. The affected Municipality may request an extension of the initial review period. The proposing Municipality sending the referral may agree to an extension of the review period and, where an extension is provided, it shall be communicated in writing.

4. Subject to a written and signed intermunicipal memorandum of understanding, items subject to referral and their respective timelines for submitting comments may be added or deleted without the need for a formal amendment to this Plan.
5. Planning and Development issues that become evident during a circulation review through the communication and referral process will be communicated to the proposing Municipality in writing. In order to facilitate the cooperative development process, the Municipalities shall address the issues or source of contention using the following process:

Stage 1: Administrative Review

Every attempt shall be made to discuss the issue between the Municipalities' Chief Administrative Officers and Development Authorities with the intent of arriving at a mutually acceptable resolution. If an agreement or understanding on how to approach the issue is reached, the affected Municipality shall indicate the same to the proposing Municipality in writing. If an agreement cannot be reached, the matter shall be referred to the Intermunicipal Committee.

Stage 2: Intermunicipal Planning Committee Review

If an issue is referred, a meeting shall be scheduled to allow both Administrations to present their perspectives and views on the issue. The Intermunicipal Planning Committee is comprised of a total of six appointed representatives including one staff member and two elected Councillors from both the M.D. and the County, less those Councillors who are also members of the SDAB. The Intermunicipal Committee may:

- a) Provide suggestions back to both Administrations on how to address the issue and refer the matter back to the Administrative Review stage;
- b) Seek additional information and alternatives for consideration at a future meeting of the Intermunicipal Committee;
- c) If possible, agree on a consensus position that resolves the issue; or
- d) Conclude that no initial agreement can be reached, and the development matter will be left to the respective Municipality's Development Authority for adjudication, with the objecting Municipality having the ability to refer the matter to the dispute resolution process as outlined for an approved development permit or subdivision applications.

In the event that the Intermunicipal Committee reaches consensus and resolves the issue, the details of the consensus shall be provided to the Municipalities in writing.

11. DISPUTE RESOLUTION PROCESS

This is a mandatory component of the IDP as per the MGA. While the intent is to avoid municipal appeals of decisions to the SDAB, an unresolvable issue, or proceeding to an appeal to the Municipal Government Board (MGB), there may be issues or applications that still need to be administered. Where a decision leads to contention between the two partner Municipalities, the process indicated below will occur in respect to the decision.

For the dispute resolution process, a Dispute Resolution Committee will serve for the interests of both Municipalities and is comprised of an equal number of appointed representatives from both Municipalities,

which includes the Chief Administrative Officers and Development Authorities and two council members from each Municipality, less those who serve on the SDAB.

The following shall form the basis for initiating the dispute resolution process:

- a) Lack of agreement between the Municipalities on any proposed amendment to this Plan;
- b) Lack of agreement between the Municipalities on any proposed statutory plan, concept plan, land use bylaw or amendment to any of these documents affecting lands within the Fringe Area which have not been reconciled through the Referral Process; or
- c) Lack of agreement between the Municipalities on an interpretation of this Plan;
- d) Lack of agreement between the Municipalities on an approved development permit or subdivision application affecting lands within the Fringe Area which have not been reconciled through the Referral Process.

The dispute resolution process of this Plan may only be initiated by the Council of either the M.D. or the County and shall only be used for resolving intermunicipal planning disputes. Where either Municipality has received written notice of a dispute from the other Municipality, the dispute resolution process shall be started within fifteen calendar days of the date the written notice was received unless otherwise agreed to by the Chief Administrative Officer of the Municipality that sent the notice.

A dispute shall be addressed and may be resolved at any stage using the following process:

Stage 1: Mediation Process

In accordance with Section 690(1)(c) of the MGA, engaging a mediator is mandatory in order for an appeal to occur before the Municipal Government Board (MGB), unless otherwise able to provide reasonable and valid evidence as to why a mediator was not engaged. Therefore, it is the best practice to engage a mediator to resolve a dispute through a neutral entity. A dispute is referred for mediation which shall be used to reach an agreement unless otherwise deemed unnecessary by the Councils of the affected Municipality and proposing Municipality. Prior to the commencement of the mediation process, the Municipalities shall:

1. Appoint an equal number of representatives from both Municipalities to participate in the mediation process on a Dispute Resolution Committee;
2. Engage a mediator agreed to by both Municipalities at equal cost to both parties; and
3. Approve a mediation process and schedule. Mediation should commence no later than thirty days following the date the written dispute notice was received.
4. If agreed to by the Dispute Resolution Committee, Municipal Administration may be used as a resource during the mediation process.
5. All discussions and information related to the mediation process shall be held in confidence until the conclusion of the mediation process.
6. The process shall be deemed as finished once the mediator submits a report to the Councils of both Municipalities.
7. The mediator's report and recommendations shall not be binding on either Municipality.
8. For disputes that cannot be appealed, the mediator's report shall be considered binding.

9. If the Councils accept the mediator's report in their respective meetings, this shall be communicated to the Municipality in writing and the matter shall be considered resolved. The report shall be introduced through the public hearing process along with any necessary amendments to the proposed bylaw or plan.
10. If mediation is not undertaken or the mediator's report is not accepted by the Councils, then the disputing municipality may begin the appeal process where permitted to do so by the *Municipal Government Act*.

Stage 2: Appeal Process

In the event that mediation proves to be unsuccessful, was not undertaken, or the proposing Municipality proceeds with an approval that does not reflect the accepted mediation recommendations, the affected Municipality may appeal the matter to the MGB in accordance with Section 690(1) of the *Municipal Government Act*.

If the disputing Municipality initiates a dispute, they may withdraw their objections at any time throughout the process and shall provide written confirmation that the dispute is withdrawn to the proposing Municipality.

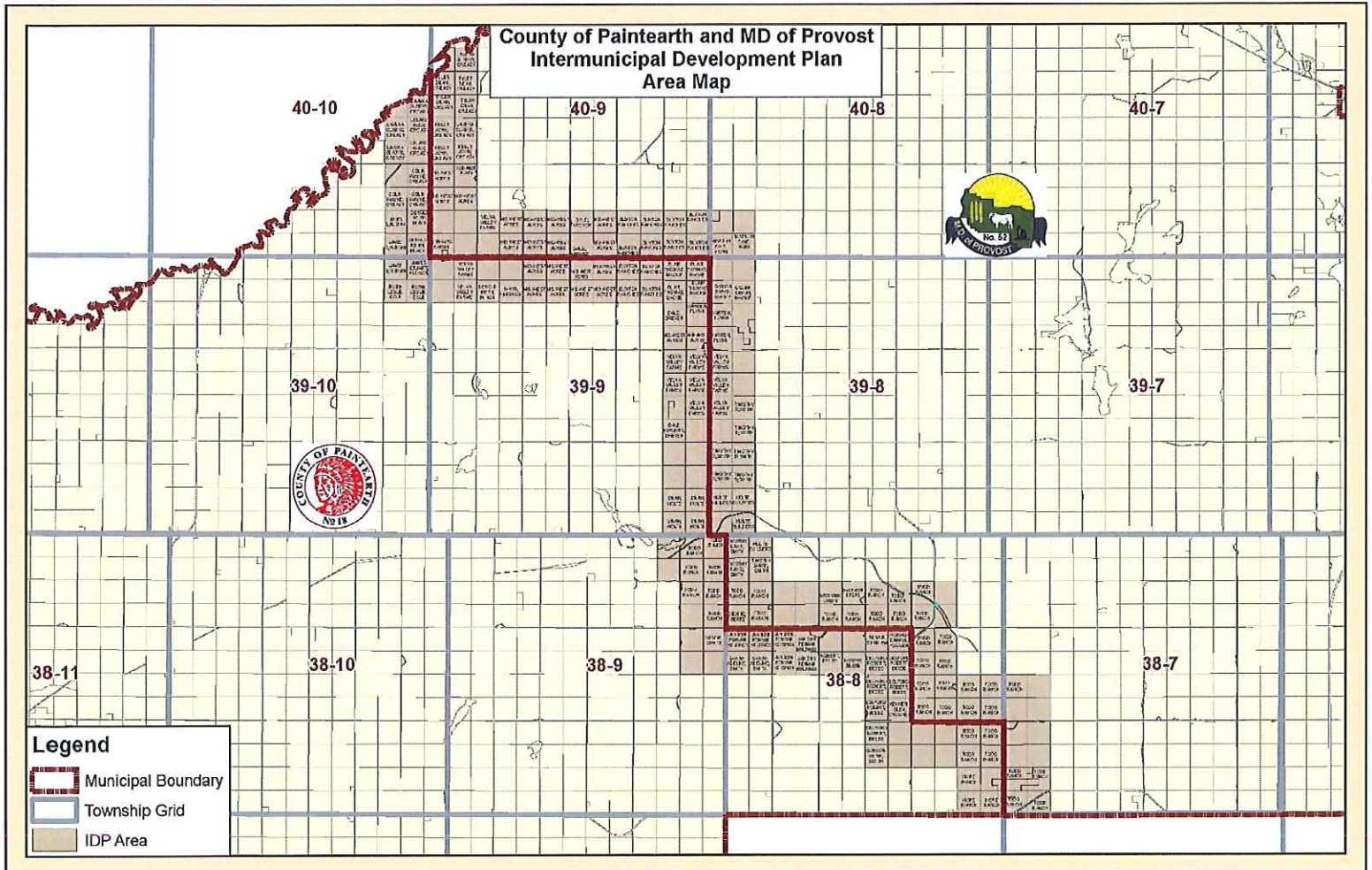
Both the M.D. and the County agree that time shall be of the essence when working through the dispute resolution process.

12. IMPLEMENTATION, REVIEW, AMENDMENTS AND REPEAL OF IDP

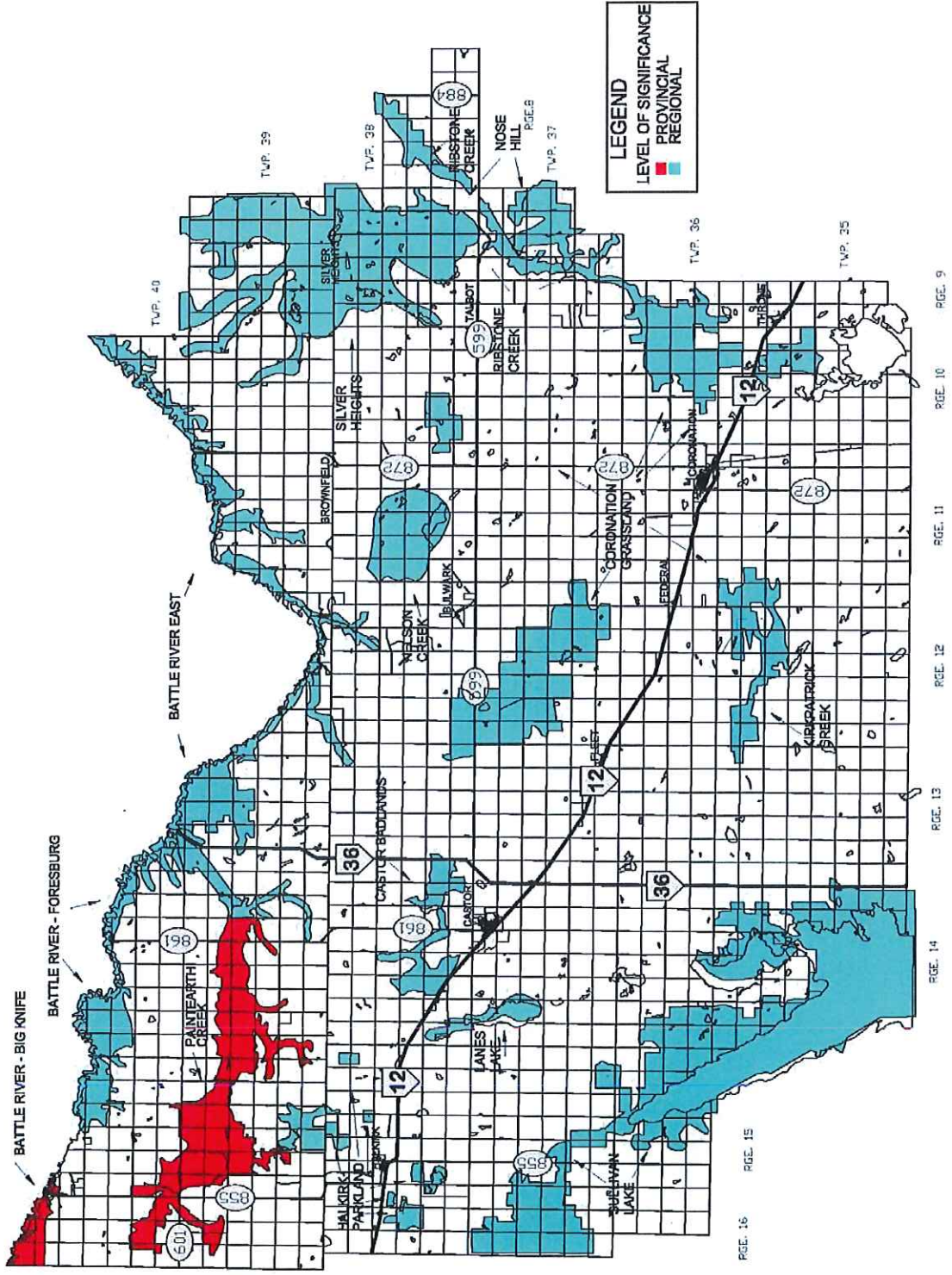
This is also a mandatory component of the IDP as per the MGA. The IDP is seen as a living document, in that it is open to review, amendment and effect within a term agreed upon by the Municipalities in accordance with the following stipulations:

1. This IDP will go under mandatory review every five years following the date of adoption by the Councils of both Municipalities unless otherwise reviewed and renewed before such date. If a review does not occur within such a timeline, it will expire indefinitely.
2. Upon adoption, the IDP will supersede previous policies, studies or resolutions for the Fringe Area contained within.
3. The IDP may be reviewed annually together by both of the Municipality's CAOs with development staff for possible amendments, which may be suggested at any time from the joint review committee.
4. Repealing the IDP or withdrawing from it requires both municipalities to go through the Dispute Resolution Process steps 1-2.

APPENDIX A – FRINGE AREA MAP



APPENDIX B – COUNTY OF PAINTEARTH MAP OF ENVIRONMENTALLY SENSITIVE AREAS (ESAs)



APPENDIX C – COUNTY OF PAINTEARTH DEVELOPMENT HAZARD MAP

