



Province of Alberta

## MUNICIPAL GOVERNMENT ACT

# **CLEAN ENERGY IMPROVEMENTS REGULATION**

### **Alberta Regulation 212/2018**

With amendments up to and including Alberta Regulation 153/2020

Current as of September 30, 2020

### Office Consolidation

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### **Note**

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(Consolidated up to 153/2020)

**ALBERTA REGULATION 212/2018**

**Municipal Government Act**

**CLEAN ENERGY  
IMPROVEMENTS REGULATION**

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**Definitions**

**1** In this Regulation,

- (a) “administration fee” means the proportionate share of the costs associated with the administration of the clean energy improvement program included in the cost of a clean energy improvement;
- (b) repealed AR 153/2020 s2;
- (c) “incidental cost” means an amount expended on preparation or upgrading of a property that is incidental to the clean energy improvement;
- (d) “Minister” means the Minister responsible for the *Emissions Management and Climate Resilience Act*;
- (e) “program administrator” means the program administrator referred to in section 2;

- (f) “qualified contractor” means a person included on the list referred to in section 4(1).

AR 212/2018 s1;153/2020

#### **Program administrator**

**2(1)** Repealed AR 153/2020 s3.

**(2)** The Minister may, by order, designate an entity or entities as program administrator for the purposes of this Regulation.

**(3)** The order referred to in subsection (2) may specify sections of this Regulation to which the designation applies.

AR 212/2018 s2;153/2020

#### **Eligible improvements**

**3(1)** The program administrator must establish and update a list of types of renovations, adaptations or installations for which clean energy improvement agreements may be made and publish the list on the program administrator’s website.

**(2)** The list referred to in subsection (1)

(a) must include information with respect to

- (i) the anticipated lifespan of the renovation, adaptation or installation, and
- (ii) the energy savings estimated to be the result of the renovation, adaptation or installation,

and

(b) may include information that is not referred to in clause (a).

#### **Qualified contractors**

**4(1)** The program administrator must establish and update a list of persons who may provide services relating to clean energy improvements and publish the list on the program administrator’s website.

**(2)** The program administrator must establish and publish on the program administrator’s website

(a) a code of conduct for qualified contractors,

(b) marketing guidelines for qualified contractors, and

- (c) a policy for when qualified contractors will be removed from the list referred to in subsection (1) for failure to comply with the code of conduct or marketing guidelines.
- (3)** The code of conduct referred to in subsection (2) must address, without limitation, the following:
- (a) the safety and welfare of individuals on worksites;
  - (b) licensing and qualifications;
  - (c) adherence to policies, procedures and bylaws;
  - (d) appropriate and respectful interactions with property owners;
  - (e) confidential information;
  - (f) conflicts of interest;
  - (g) acting in good faith.
- (4)** The marketing guidelines referred to in subsection (2) must address, without limitation, the following:
- (a) unfair, misleading and deceptive marketing practices;
  - (b) the provision of information about the clean energy improvement program as established in the Act, this Regulation, and the clean energy improvement bylaw enacted in the municipality in which an owner's property is located;
  - (c) the soliciting of consumers for the purpose of marketing services relating to clean energy improvements.
- (5)** No person shall provide services relating to the installation of a clean energy improvement unless that person is a qualified contractor.
- (6)** Qualified contractors
- (a) must comply with the code of conduct and marketing guidelines established by the program administrator,
  - (b) must meet all federal, provincial and municipal licensing and certification requirements established for that person's trade or profession,
  - (c) must obtain any permits required by law when providing services relating to clean energy improvements, and

- (d) shall not enter into an agreement for the provision of services relating to the installation of a clean energy improvement other than an agreement referred to in section 11.

(7) If a person who is a qualified contractor fails to comply with subsection (4), the program administrator may remove the person from the list referred to in subsection (1) in accordance with the policy referred to in subsection (2)(c).

#### **Clean energy improvement tax bylaws**

**5(1)** In addition to meeting the requirements referred to in section 390.3 of the Act, a clean energy improvement tax bylaw must

- (a) indicate that a clean energy improvement tax may be imposed on a property that is subject to a clean energy improvement agreement at any time following the signing of the clean energy improvement agreement, and
- (b) identify the program administrator, if any, designated by the Minister.

(2) A municipality must not set out an eligible improvement in a clean energy improvement tax bylaw under section 390.3(4) of the Act unless the eligible improvement is included in the list referred to in section 3(1).

(3) A clean energy improvement tax bylaw may specify amounts for the purposes of section 10(1)(b)(ii) that are lower than the amounts provided in that section.

#### **Agreement with program administrator**

**6(1)** A municipality that has passed a clean energy improvement tax bylaw must enter into an agreement with the program administrator relating to the administration of the municipality's clean energy improvement program.

(2) The agreement referred to in subsection (1) must determine how the administration fee will be divided between the program administrator and the municipality.

#### **Applications for clean energy improvements**

**7(1)** The owner of a property that is located in a municipality that has passed a clean energy improvement tax bylaw may apply to the program administrator for a clean energy improvement.

(2) An application for a clean energy improvement must include

- (a) evidence satisfactory to the program administrator that the applicant is the owner of the property,
  - (b) evidence satisfactory to the program administrator that the property is insured,
  - (c) if the property is a unit described in a condominium plan under the *Condominium Property Act* and the clean energy improvement will affect common property or managed property as defined in that Act, the written approval of the condominium board, and
  - (d) if the property is located in a building that includes shared facilities and the clean energy improvement will affect any of those shared facilities, the written approval of the owner of the building.
- (3)** If requested to do so by the program administrator, an applicant must
- (a) participate in a technical assessment or an energy audit, as defined by the program administrator, or
  - (b) allow the program administrator to, at a reasonable time and after giving reasonable notice, inspect the property for the purpose of assessing the application.
- (4)** The applicant must provide the program administrator with a sworn statement in the form required by the program administrator that the applicant is in good standing with respect to the payment of taxes imposed under the Act in the 5-year period before the applicant submitted the application.
- (5)** An application for a clean energy improvement must be signed by all owners of the property.

**Application fees**

- 8(1)** The program administrator may charge an application fee in relation to applications for clean energy improvements.
- (2)** If the program administrator charges an application fee in relation to applications for clean energy improvements, the fee must not exceed the following:
- (a) for applications relating to residential properties, \$100;
  - (b) for applications relating to non-residential properties, \$500;
  - (c) for applications relating to farm land, \$200.

**Approval of application**

**9(1)** Before approving an application for a clean energy improvement, the program administrator must provide the applicant with the form of agreement for the clean energy improvement agreement and obtain the signed acknowledgement of the applicant that the applicant has received this information.

**(2)** The program administrator may approve an application for a clean energy improvement only if the proposed clean energy improvement is eligible under the clean energy improvement bylaw enacted in the municipality in which the property that is the subject of the application is located.

**(3)** If the program administrator is satisfied that the requirements of the Act relating to clean energy improvements, this Regulation and the clean energy improvement bylaw enacted in the municipality in which the property that is the subject of the application is located have been met, the program administrator may approve the application.

**(4)** If the application is approved, the program administrator must provide a copy of the approved application to the applicant and to the municipality in which the property that is the subject of the application is located.

**Clean energy improvement agreements**

**10(1)** A municipality may enter into a clean energy improvement agreement with the owner of a property only if

- (a) the program administrator has approved the owner's application for a clean energy improvement in accordance with section 9,
- (b) the value of the capital costs of undertaking all clean energy improvements to the property
  - (i) is not less than \$3000, and
  - (ii) subject to section 5(3), does not exceed
    - (A) for residential property, \$50 000,
    - (B) for non-residential property, \$1 000 000 or a greater amount if that amount is approved by the Minister and by resolution of council, and
    - (C) for farm land, \$300 000 or a greater amount if that amount is approved by the Minister and by resolution of council,



and

- (c) subject to subsection (2), the amount of the tax authorized by a bylaw passed under section 353 of the Act most recently imposed on the property is greater than or equal to the annual payment calculated in accordance with the following formula:

$$\frac{A + B + C}{D}$$

where

- A is the capital cost of undertaking the clean energy improvement;
- B is the total cost of professional services needed for the clean energy improvement;
- C is the total of all incidental costs;
- D is the probable lifetime, calculated in years, of the improvement.

**(2)** The requirement in subsection (1)(c) does not apply to farm land or a property that is exempt from taxation under Part 10 of the Act.

**(3)** Nothing in this Regulation requires a municipality to enter into a clean energy improvement agreement with any owner of a property.

**(4)** In addition to meeting the requirements referred to in section 390.4 of the Act, a clean energy improvement agreement must include

- (a) the estimated date of completion of the clean energy improvement,
- (b) the estimated cost of the clean energy improvement,
- (c) the administration fee,
- (d) the manner in which a cost overrun or underrun is to be dealt with if the actual cost of the clean energy improvement differs from the estimated cost,
- (e) that the costs of the clean energy improvement may be revised if the council refinances the debt created to pay for the clean energy improvement at an interest rate other than the rate estimated when the clean energy

improvement agreement was made and the manner by which the costs would be revised,

- (f) that the clean energy improvement tax may be imposed at any time following the signing of the clean energy improvement agreement,
- (g) that the amount that may be expended on incidental costs must not exceed 15% of the total capital cost of undertaking the clean energy improvement, and
- (h) that the agreement may be rescinded during the period of 10 days following the date when the agreement is signed.

**(5)** The proportionate share of the costs associated with the administration of the clean energy improvement program must not exceed 5% of the total capital cost of undertaking the clean energy improvement.

**(6)** In addition to meeting the requirements referred to in section 390.4 of the Act, a clean energy improvement agreement must require the owner of the property

- (a) to allow the program administrator, at a reasonable time and after giving reasonable notice, access to the property that is the subject of the clean energy improvement agreement in order to monitor the progress of the clean energy improvement or to verify that the clean energy improvement has been completed,
- (b) if the property is offered for sale, to disclose the existence and the contents of the agreement to
  - (i) prospective purchasers of the property, and
  - (ii) if the owner engages the services of a realtor, to the realtor,
- (c) if the property is sold, to ensure that the clean energy improvement agreement is appended to the contract of sale, and
- (d) if the property is transferred other than by sale, to ensure that the clean energy improvement agreement is provided to the person to whom the property is transferred.

**(7)** A clean energy improvement agreement must be signed by all owners of the property.

**(8)** The program administrator must review the terms and conditions of the clean energy improvement agreement with all owners of the property and obtain the signed acknowledgement of

all owners that they understand the terms and conditions before the clean energy improvement agreement is signed.

#### **Agreement with qualified contractors**

**11(1)** If a municipality and a property owner have entered into a clean energy improvement agreement, the program administrator must enter into an agreement with the property owner and a qualified contractor for services relating to the clean energy improvement.

**(2)** The agreement referred to in subsection (1) must

- (a) require that any product the qualified contractor installs or otherwise provides for the purpose of the clean energy improvement has a manufacturer's warranty
  - (i) with a warranty period that is consistent with the industry standard, provided that the warranty period is not less than one year beginning on the date of completion of services, and
  - (ii) that is transferrable to the property owner and any subsequent owner of the property,
- (b) require that the qualified contractor provide a warranty for defects in materials and labour for a reasonable period of time, provided that the warranty period is not less than one year beginning on the date of completion of services, and
- (c) establish a dispute resolution process.

#### **Monitoring and reporting**

**12(1)** The program administrator must monitor clean energy improvement programs established by municipalities for cost savings and emission reductions.

**(2)** The program administrator must, on an annual basis beginning in 2020, prepare and publish, in a form and manner that is accessible to the public, an annual report respecting clean energy improvement programs on or before September 1.

**(3)** The program administrator must provide a copy of the report referred to in subsection (2) to each municipality that has passed a clean energy improvement tax bylaw.

**Coming into force**

**13** This Regulation comes into force on the coming into force of section 6 of *An Act to Enable Clean Energy Improvements*.









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