



# UNIVERSITY OF ALBERTA FACULTY OF LAW

## **Municipalities & Biodiversity: Tools and policies to measure and mitigate biodiversity loss**

**Cam Jefferies**

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*“uplifting the whole people”*

— HENRY MARSHALL TORY, FOUNDING PRESIDENT, 1908



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## Biodiversity Conservation is Needed at *ALL* Levels

- *Biodiversity*: the diversity and variety of life found on Earth, the assemblages they form, and the interactions between living and non-living aspects of the environment
- Can be measured at various scales, from the backyard to an urban park, and beyond
- Biodiversity is in decline globally, and Canada is no exception to this trend; losses are occurring across jurisdictional and political boundaries
- 81% of Albertans currently live and experience nature and the environment in an urban environment. Increasingly, attention is focused on what municipalities can contribute to conservation



# The Importance of Local Biodiversity

- It is no coincidence that human settlement and urbanization occurs in biodiversity-rich areas
- There is no one-size-fits all approach owing to local cultural perceptions on wildlife (e.g., urban, peri-urban, and rural)
- Municipal Biodiversity:
  - Creates more livable environments
  - Helps improve quality of life (physical and mental)
  - Connects people to the (non-human built) world
  - Provides environmental services (air, water, and soil quality, pollination, flood buffering, climate mitigation/adaptation etc.)
  - Helps maintain connectivity to surrounding landscapes and improves the overall resiliency of ecosystems (see: climate crisis)
  - Is worth protecting for its intrinsic value and importance



## Legal Justification for Local Action

- Various legal questions emerge when considering municipal biodiversity conservation (is there authority to act *and* what does this authority allow?)
- Canadian environmental law invariably engages jurisdictional questions owing to the reality that “the environment” is an area of shared authority (*see*: carbon pricing)
- Municipalities are NOT a constitutionally recognized level of government in Canada; rather, they derive authority from provincial legislation that creates, enables, and authorizes municipal action



## Legal Justification for Local Action

- Municipalities are well positioned to assess local ecosystems and the needs of their (human) residents, and to develop an appropriately tailored conservation response
- *Principle of Subsidiarity*: notion that management and regulation is often best left to the smallest possible political entity capable of addressing the issue at hand (*14957 Canada Ltee (Spraytech) v. Hudson* [2001])
- When it comes to conserving biodiversity, it is clear that *each* level of government must act consistently and in a complementary manner



## **(New) Legal Justification for Local Action**

### *Alberta's Municipal Government Act (MGA)*

- Environmental protection has not, traditionally, been a focus of this enabling legislation, which was first consolidated in 1967 and then again in 1994
- Modernized through a series of amendments starting in 2015
- One of the purposes of modernization was to provide municipalities with tools to help build and support sustainable communities
- Three amendments are particularly interesting for this discussion: (1) expanded municipal purposes; (2) city charter regulations; and (3) conservation reserves





# **(New) Legal Justification for Local Action**

## **Section 3 Municipal purposes**

The purposes of a municipality are

- (a) to provide good government,
- (a.1) to foster the well-being of the environment,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality,
- (c) to develop and maintain safe and viable communities, and
- (d) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.





# (New) Legal Justification for Local Action

**Part 4.1** – The Creation of City Charters “to address the evolving needs, responsibilities and capabilities of cities in a manner that best meets the needs of their communities”

- Edmonton and Calgary both have City Charter Regulations, which provide the following additional authority
  - (h.1) the well-being of the environment, including bylaws providing for the creation, implementation and management of programs respecting any or all of the following:
    - (i) contaminated, vacant, derelict or under-utilized sites;
    - (ii) climate change adaptation and greenhouse gas emission reduction;
    - (iii) environmental conservation and stewardship;
    - (iv) the protection of biodiversity and habitat;
    - (v) the conservation and efficient use of energy;
    - (vi) waste reduction, diversion, recycling and management;



# (New) Legal Justification for Local Action

Addition of “Conservation Reserves” ...

664.2(1)

A subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land to the municipality as conservation reserve if

- (a) in the opinion of the subdivision authority, the land has environmentally significant features,
- (b) the land is not land that could be required to be provided as environmental reserve,
- (c) the purpose of taking the conservation reserve is to enable the municipality to protect and conserve the land, and
- (d) the taking of the land as conservation reserve is consistent with the municipality’s municipal development plan and area structure plan.



## Other Options for Conserving Biodiversity

- Statutory Plans
- Intermunicipal Collaboration Frameworks
- Land-use Bylaws
- Environmental Reserves
- Conservation Easements
- Climate Change Adaptation Plans
- Citizen education and outreach initiatives

Woven together, municipal initiatives can make a positive contribution to environmental stewardship and biodiversity conservation



## BIODIVERSITY?

Biodiversity is the variety of life around us. It can refer to genetic diversity, species diversity and ecosystem diversity.

## WHY IS IT IMPORTANT?

We benefit greatly from nature. Wetlands buffer against floods. Bees help grow food. Trees clean the air. **Even in urban areas nature is still critical to our well-being.**

## URBAN HABITAT

Your yard is one piece of habitat that is connected to the broader urban ecosystem.

## URBAN BIODIVERSITY?

### YOUR LOCAL GOVERNMENT...

-  Has a legal responsibility to foster the well-being of the environment.
-  Is working to engage citizens in biodiversity conservation.
-  Understands the importance of trees to health and well-being.
-  Is working to maintain and create greenspace through land acquisitions and reserves.

### YOUR URBAN BACKYARD

- ✓ Can provide habitat for animals, birds and insects
- ✓ Can be an oasis of native species
- ✓ Can be pesticide and fertilizer free
- ✓ Can contribute to the urban forest canopy
- ✓ Can meaningfully impact urban biodiversity

## WHAT CAN I DO?

There are many ways you can help enhance biodiversity in your own backyard and get involved with biodiversity conservation in your community.



### NATURESCAPING

Embrace naturescaping over landscaping – plant native species and build habitat for birds, insects, reptiles or amphibians.



### GET INVOLVED

Get involved in a citizen science program (e.g. Naturelynx or an annual bird count).



### EDUCATE YOURSELF

Learn more about nature through local conservation organizations.



### GO OUTSIDE

Go on a hike and immerse yourself in nature.



### INSPIRE OTHERS

Spread the word, tell your friends and write to your local politician.