

1991 BILL 26

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

PLANNING AMENDMENT ACT, 1991

MR. CLEGG

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Explanatory Notes

1 This Bill will amend chapter P-9 of the Revised Statutes of Alberta 1980.

2 Section 1 presently reads in part:

1 *In this Act,*

(e) *"environmental reserve" means the land specified to be environmental reserve by a subdivision approving authority pursuant to section 98;*

(l) *"municipal reserve" means the land specified to be municipal reserve by a subdivision approving authority pursuant to section 99 or 101;*

(l.1) *"municipal and school reserve" means the land specified to be municipal and school reserve by a subdivision approving authority pursuant to section 99 or 101;*

(u) *"school reserve" means the land specified to be school reserve by a subdivision approving authority pursuant to section 99 or 101;*

(z) *"utilities" means any one or more of the following:*

(i) *systems for the distribution of gas, whether artificial or natural;*

(ii) *facilities for the storage, transmission, treatment, distribution or supply of water;*

(iii) *facilities for the collection, treatment, movement or disposal of sanitary sewage;*

3 *The following is added after section 2:*

2.1(1) A condition of a licence, permit, approval or other authorization granted by the Lieutenant Governor in Council, a Minister of the Crown or a government agency pursuant to an enactment prevails over any condition of a development permit that conflicts with it.

(2) In this section, “government agency” means a corporation that is an agent of the Crown in right of Alberta, a government official or any corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by one or more of the following:

- (a) an Act of the Legislature;
- (b) the Lieutenant Governor in Council;
- (c) a Minister of the Crown.

4 *Section 3 is amended*

(a) *in subsection (1) by adding “or” at the end of clause (b), striking out “or” at the end of clause (c) and repealing clause (d);*

(b) *by adding the following after subsection (2):*

(3) The Lieutenant Governor in Council may, by regulation, exempt an action, person or thing from the application of any provision or all of this Act or of the regulations.

(4) The Lieutenant Governor in Council may include terms and conditions in a regulation under subsection (3).

(iv) storm sewer drainage facilities;

(v) any other things prescribed by the Lieutenant Governor in Council by regulation,

but does not include those systems or facilities referred to in subclauses (i) to (iv) that are exempted by the Lieutenant Governor in Council by regulation.

3 Conflict with development permit conditions.

4 Section 3 presently reads:

3(1) This Act and the regulations do not apply when a development or a subdivision is effected solely for the purpose of

(a) a highway or public roadway,

(b) a well or battery within the meaning of the Oil and Gas Conservation Act,

(c) a pipeline or an installation or structure incidental to the operation of a pipeline, or

(d) any other thing specified by the Lieutenant Governor in Council by regulation.

(2) This Act and the regulations do not apply to the geographic area of a Metis settlement.

5 The heading preceding section 78 is amended by striking out "Lot" and substituting "Parcel".

6 Section 78 is amended

- (a) in subsections (1), (2) and (3) by striking out "lot" wherever it occurs and substituting "parcel";*
- (b) in subsection (2)(a) by striking out "is to be occupied" and substituting "is to be occupied";*
- (c) by repealing subsection (6) and substituting the following:*
 - (6) A municipal planning commission or joint municipal planning commission may, in a development permit, exempt any person or land from the operation of subsection (1).**

7 Section 86(2) is amended by adding the following after clause (e):

- (f) a parcel created pursuant to a Board order under section 110.1.*

5 The heading preceding section 78 presently reads:

Dwelling Units on a Lot

6 Section 78 presently reads in part:

78(1) Subject to subsections (2), (3) and (6), no person shall construct or locate or cause to be constructed or located more than one dwelling unit on a lot.

(2) A development officer may issue a development permit to a person that would permit the construction or location of more than one dwelling unit on a lot if the 2nd or additional dwelling unit

(a) is to be occupied by a person who is engaged on a full-time basis for at least 6 months each year in an agricultural pursuit,

(b) is contained in a building that, or in buildings each of which, is designed for or divided into 2 or more dwelling units,

*(c) is a mobile unit as defined in the Municipal Government Act forming part of a park for mobile units,
or*

(d) is a building, as defined in the Condominium Property Act, that is the subject of a condominium plan to be registered in a land titles office under that Act.

(3) A development officer shall issue a development permit to a person that would permit the construction or location of a 2nd dwelling unit on a lot if the lot has an area of at least 80 acres.

(6) The Board may exempt any person or land from the operation of this section.

7 Section 86(2) presently reads:

(2) Subject to subsection (3), a Registrar may accept for registration without subdivision approval an instrument that has the effect or may have the effect of subdividing a parcel described in a certificate of title if registration of the instrument would result in the issuing of one or more certificates of title and the parcel described in each certificate of title so issued would consist only of one or more of the following:

(a) a quarter section;

(b) a river lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;

8 *Section 91 is amended by adding the following after subsection (2):*

(3) Notwithstanding subsections 1(1)(a) and (b) and (2), a subdivision approving authority shall approve an application for subdivision approval if the subdivision regulations require that the subdivision approving authority grant the approval.

(b.1) a lake lot shown on an official plan as defined in the Surveys Act that is filed or lodged in a land titles office;

(c) a settlement lot shown on an official plan, as defined in the Surveys Act, that is filed or lodged in a land titles office;

(d) repealed 1988 c39 s12;

(e) a part of the parcel described in the existing title if the boundaries of the part are shown and delineated on a plan of subdivision.

8 Section 91 presently reads:

91(1) A subdivision approving authority shall not approve an application for subdivision approval unless

(a) the land that is proposed to be subdivided is, in the opinion of the subdivision approving authority, suitable for the purpose for which the subdivision is intended;

(b) the proposed subdivision conforms to the provisions of any regional plan, ministerial regional plan, statutory plan and, subject to subsection (1.1), any land use by-law or land use regulation that affects the land proposed to be subdivided;

(c) the proposed subdivision complies with this Act and the regulations;

(d) all outstanding property taxes on the land proposed to be subdivided have been paid to the council of the municipality in which the land is situated or arrangements satisfactory to the council have been made for the payment thereof.

(1.1) A subdivision approving authority may approve an application for subdivision approval notwithstanding that the proposed subdivision does not comply with the land use by-law or land use regulation if, in its opinion,

(a) the proposed subdivision would not

(i) unduly interfere with the amenities of the neighbourhood, or

(ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties,

and

(b) the proposed subdivision conforms with the use prescribed for that land in the land use by-law or land use regulation, as the case may be.

9 *Section 93(3) is amended*

- (a) *by striking out “and” at the end of clause (b) and by adding “and” at the end of clause (c);*
- (b) *by adding the following after clause (c):*
 - (d) the regional planning commission for the area within which the land proposed to be subdivided is situated unless the regional planning commission is the subdivision approving authority.

10 *The following is added after section 110:*

**Division 4.1
Designation of Municipal Land for
Reserve and Public Utilities Purposes**

110.1(1) The Board may order that a parcel or a part of a parcel owned by a municipal corporation, or in the process of being acquired by a municipal corporation under section 126 of the *Municipal Government Act*, be designated as municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot

- (a) on the request of council, or
- (b) during the granting of an order under section 117.1.

(2) On receipt of an order under this section and the applicable fees, the Registrar shall do all things necessary to give effect to the order, including cancelling the existing certificate of title and issuing a new certificate of title for the parcel with the designation of

- (a) a municipal reserve, which shall be identified by a number suffixed by letters “MR”,
- (b) a school reserve, which shall be identified by a number suffixed by letters “SR”,
- (c) a municipal and school reserve, which shall be identified by a number suffixed by letters “MSR”,

(2) A subdivision approving authority may approve or refuse an application for subdivision approval.

9 Section 93(3) presently reads:

(3) Copies of the decision shall be sent to

(a) the applicant,

(b) the council of the municipality in which the land proposed to be subdivided is situated, except when a municipal planning commission is the subdivision approving authority for that municipality, and

(c) the one or more school authorities affected.

10 Designation of municipal land.

- (d) an environmental reserve, which shall be identified by a number suffixed by letters "ER",
- (e) a public utility lot, which shall be identified by a number suffixed by letters "PUL", or
- (f) a lot, which shall be identified by a number.

(3) The certificate of title for a municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot under this section shall be free of all encumbrances as defined in the *Land Titles Act*.

11 Section 111(1) is amended by striking out "Environmental" and substituting "Subject to section 117.1, environmental".

12 The following is added after section 117:

117.1(1) If a council wishes to

- (a) use an environmental reserve for a purpose not specified in section 111(1),
- (b) lease or dispose of an environmental reserve, other than by a sale, to a person for any use for a term that does not exceed 3 years, or
- (c) change the boundaries of an environmental reserve in order to correct an omission, error or other defect in the certificate of title, or to rectify an encroachment problem or other concern,

it may apply to the Board for an order to approve the use, lease or disposition or boundary change referred to in clause (a), (b) or (c).

(2) The Board may include terms and conditions in an order under subsection (1).

(3) A council shall give notice and hold a public hearing in accordance with sections 115 and 116 prior to making the application under subsection (1).

(4) Any proceeds from a lease or other disposition under subsection (1) may be used only to provide land for all or any of the purposes referred to in section 111(2).

11 Section 111(1) presently reads:

111(1) Environmental reserve may be used as a public park but if it is not so used, it must be left in its natural state.

12 Changes to an environmental reserve's use or boundaries.

(5) On receipt of an order under subsection (1)(c), the Registrar shall cancel the existing certificates of title affected by the order and shall issue any new certificates of title required by the order.

13 Section 118 is amended by striking out “to 117” and substituting “to 117.1”.

14 Section 119 is repealed and the following is substituted:

119 An environmental reserve may not be sold but it may be leased or otherwise disposed of pursuant to a Board order under section 117.1.

15 Section 154 is amended

(a) by adding the following after clause (a):

(a.1) contravenes a land use by-law,

(b) by striking out “\$500” and substituting “\$2500”.

16 Section 155 is repealed and the following is substituted:

155 If a person is found guilty of an offence under section 154, the court may, in addition to any other penalty imposed, order the person to comply with

13 Section 118 presently reads:

118 Notwithstanding sections 111 to 117, a council or a council and a school authority, as the case may be, may authorize

(a) the construction, installation and maintenance or any of them of a public roadway, public utility, pipeline as defined in the Oil and Gas Conservation Act or transmission line as defined in the Hydro and Electric Energy Act on, in, over or under reserve land, or

(b) the maintenance and protection of reserve land,

if the interests of the public will not be adversely affected.

14 Section 119 presently reads:

119 Environmental reserve may not be sold, leased or otherwise disposed of.

15 Section 154 presently reads:

154 A person who

(a) contravenes any provision of this Act or the regulations,

(b) contravenes an order under section 81,

(c) contravenes a development permit or subdivision approval or a condition attached thereto, or

(d) obstructs or hinders any person in the exercise or performance of his powers or duties under this Act, the regulations or a land use by-law,

is guilty of an offence and is liable to a fine of not more than \$500.

16 Section 155 presently reads:

155 If a person is found guilty of an offence under section 154, the court may, in addition to any other penalty imposed, order the person to comply with this Act, the regulations, a land use by-law, an order under section 81 or a development permit,

- (a) this Act, the regulations or a land use by-law,
- (b) an order under section 81, or
- (c) a development permit, a subdivision approval or a condition attached to a development permit or subdivision approval.

17 The Municipal Government Act is amended in section 127(2)

- (a) *in clause (e) by adding “environmental reserve,” before “municipal reserve”;*
- (b) *in clause (f) by striking out “for environmental reserve or”.*

subdivision approval or a condition attached to a subdivision approval, as the case may be.

17 Consequential.

