

1993 BILL 343

Fourth Session, 22nd Legislature, 41 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 343

MUNICIPAL GOVERNMENT AMENDMENT ACT, 1993

MR. MCINNIS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 343
Mr. McInnis

BILL 343

1993

MUNICIPAL GOVERNMENT AMENDMENT ACT, 1993

(Assented to , 1993)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

- 1 The Municipal Government Act is amended by this Act.*
- 2 The following heading is added after section 196:*

Protection of Trees

- 3 The following is added after section 197:*

General protection
of trees

197.1(1) The council may, by by-law applicable to all or part of the municipality, do one or more of the following:

- (a) prohibit the cutting and removal of trees;
- (b) regulate the cutting and removal of trees;
- (c) prohibit the damaging of trees;
- (d) regulate activities that may damage trees;
- (e) require the replacement, in accordance with the by-law, of trees that have been cut, removed or damaged in contravention of a by-law under this subsection or a permit referred to in section 197.2(1);

(f) require the maintenance of replacement trees required under paragraph (e) or by permit referred to in section 197.2 and of significant trees identified under section 197.3;

(g) require specific amounts of cash deposits, letters of credit or other forms of security for the replacement of trees under paragraph (e) and their maintenance under paragraph (f);

(h) specify circumstances in which assessments or inspections of trees or sites may be undertaken by the municipality;

(i) establish exemptions from the application of a by-law under this subsection.

(2) A by-law under this section may be different in relation to one or more of the following:

(a) different areas of the municipality;

(b) different species of trees;

(c) different classes of trees;

(d) different sizes of trees;

(e) different significant trees identified under section 197.3.

Regulation of tree
cutting and
removal

197.2(1) Without limiting the generality of section 197.1(1) a by-law under that section may do one or more of the following:

(a) require permits to cut or remove trees;

(b) establish fees for these permits;

(c) establish terms and conditions for the granting, refusal and use of these permits, which may include requirements for the replacement of trees that are cut or removed or that are damaged in the course of these actions;

(d) require applicants for these permits to provide plans identifying:

(i) the trees proposed to be cut or moved;

(ii) the trees proposed to be retained; and

(iii) the trees proposed to be provided in replacement of the trees that are to be cut or removed.

(2) A fee under subsection (1)(b) for a permit must not include charges for an assessment or inspection required as a condition of the permit or authorized under section 197.1(1)(h) or 196.6(1).

Significant trees

197.3(1) The council may, by by-law, identify trees that the council considers significant because of their importance to the community, including importance for heritage or landmark value or as wildlife habitat.

(2) The council may provide for the placement of a plaque or other marker indicating a tree identified under subsection (1), subject to the requirement that permission for this be obtained from the owner of the real property on which the marker is placed.

Hazardous trees and shrubs

197.4(1) The council may, by by-law, require the owner or occupier of real property to trim, remove or cut down a tree, hedge, bush or shrub on the property if the council considers that it is

(a) a hazard to the safety of persons,

(b) likely to damage public property, or

(c) seriously inconveniencing the public.

(2) A by-law under section 197.1(1)(a) or (b) does not apply to a tree that is subject to a by-law under this section.

Removal or replacement of trees at owner's expense

197.5(1) The council may take action under this section if a person does not comply

(a) with a requirement of a by-law under section

197.1(1)(e) or a permit referred to in section 197.2(1) to provide replacement trees, or

(b) with a requirement of a by-law under section 197.4 to trim, remove or cut down trees, hedges, bushes or shrubs.

(2) In the circumstances described in subsection (1), the council may serve the person with notice that the municipality will be entitled to take the required action at the expense of the person given the notice if the person does not take that required action

(a) in the case of a requirement referred to in subsection (1)(a), within 30 days of service, or

(b) in the case of a requirement referred to in subsection (1)(b), within 5 days of service.

(3) The Court of Queen's Bench may, on application, order that the notice under subsection (2) may be served by substituted service in accordance with the order.

(4) If the person given notice does not take the required action within the time period referred to in subsection (2), the municipality may enter the real property and effect that action at the expense of the person given notice.

(5) If the person referred to in subsection (4) does not pay the costs of the action under that subsection on or before December 31 in the year in which the costs shall be added to and form part of the taxes on the real property as taxes in arrears.

Assessment and
Inspection of trees

197.6(1) In addition to the authority under section 197.1(1)(h), the council may direct that an assessment or inspection of specified trees or sites be undertaken by the municipality for the purposes of this Act.

(2) The municipality, by its employees or others, may enter onto real property and make an assessment or inspection authorized under subsection (1) or section 197.1(1)(h) or required as a condition of a permit referred to in section 197.2(1).

Limits on powers

197.7(1) A by-law under section 197.1 does not apply to land if it would have the effect of

(a) preventing all uses of the land permitted under the applicable zoning by-law, or

(b) preventing the development of the land to the density permitted under the applicable zoning by-law.

(2) As an exception to subsection (1), a by-law that has an effect referred to in that subsection applies to land if the council

(a) pays compensation, as determined by the law, to the owner of the land for any reduction in the market value caused by the prohibition, or

(b) provides, by development permit, development variance permit or otherwise, alternative means for the land to be used for its permitted use or developed to its permitted density.

(3) Except as provided in subsection (2), no compensation is payable to any person for a reduction in the value of any interest in land that results from a by-law under this Act or the issuance or refusal of a permit under this Act.