

Subject: **SURVEYS - REMOVAL OR CHANGE OF RESERVE
DESIGNATION**

BACKGROUND

Pursuant to section 661 of the Municipal Government Act, an owner subdividing land can be required to provide a portion of his land for municipal or school purposes. Depending on the purpose for which such land will be used, it may be designated as one of the following:

- municipal reserve ("MR")
- school reserve ("SR")
- municipal and school reserve ("MSR")
- environmental reserve ("ER")

Land designated as reserve is subject to use restrictions but the Municipal Government Act provides procedures for removing or changing certain reserve designations. Once a reserve designation is removed, a municipal council or school authority may sell, lease or otherwise dispose of the land.

REGISTRATION PROCEDURE

Attestation requirements must be complied with on any of the following instruments registered. (1) These instruments are to be processed by the Surveys section.

A. REMOVAL OF RESERVE DESIGNATION UNDER FORMER ACTS

The Municipal Government Act does not set out a specific procedure to remove reserve designations under former acts (lots designated with R or P). The municipalities should characterize the reserve as if it had been undertaken under the current act and may remove the designation of it, if permitted under the current act, through the same procedures. (2)

B. REMOVAL OF MR OR MSR DESIGNATIONS

1. A form (FORM A) has been developed and it or a similar declaration is to be completed. Upon its registration, the reserve designation is removed from the lot(s) involved (3) by cancelling the certificate(s) of title and issuing new certificate(s) of title.

2. If the reserve designation is removed from part of a lot, the document is to be approved by the appropriate Subdivision Authority. In addition, either a plan of survey, descriptive plan or, a plan cancellation by-law (4) is required to designate the part by a new lot number.

3. All affected plans are endorsed with the "Removal of Reserve Designation" stamp. The "R" (a former designation for municipal reserve), "MR" or "MSR" designation and, where applicable, the word "Reserve" are struck out. If the removal of the reserve designation causes a lot number duplication in the same block, a plan of survey or a plan cancellation by-law is required to change the lot number.

4. **Fees** - If a (FORM A) or by-law is registered, [Tariff item 8\(2\)](#) is charged. If a plan is registered, [Tariff item 8\(1\)](#) is charged. In addition, except for plans within the City of Calgary, a cadastral mapping fee is charged pursuant to Alberta Regulation 94/2000 made pursuant to Surveys Act. If a description approval is required, [Tariff item 9](#) is also charged.

C. CHANGE OF SR, MR, OR MSR DESIGNATIONS

1. If a school authority no longer needs an SR or MSR, the school authority must transfer the land or its interest in the land to the municipal corporation of the municipality in which the SR or MSR is located. Upon the registration of the transfer, the SR or MSR designation is struck off the plan and the MR designation is drafted on the plan. (5) The registration number of the transfer and the date of registration are endorsed on the plan. A new certificate of title is issued for the MR lot. The declaration referred to in item A.1 is not required. The transfer must be approved by the Minister of Education or the Minister of Infrastructure pursuant to section 200 of the School Act, R.S.A. 2000, c. S-3.

2. A council may transfer an MR or its interest in an MSR to a school authority. Upon the registration of the transfer, the MR or MSR is struck off the plan and the SR designation is drafted on the plan. (6) The registration number and the date of registration are endorsed on the plan. A new certificate of title is issued for the SR lot. The form referred to in A.1 is not required.

3. **Fees** - [Tariff item 3](#) is charged.

D. CHANGES TO ENVIRONMENTAL RESERVE'S USE OR BOUNDARIES

A council may register a certified copy of a by-law (7) to

a) transfer an environmental reserve to the crown or an agent of the crown. Affidavit of Value must accompany the by-law.

b) change the boundaries of an environmental reserve or environmental reserve easement in order to correct an omission, error or other defect in the title or rectify an encroachment problem or other concern.

A plan may be required to change the boundaries. A notation is made on the plan of the change of the environmental reserve boundaries.

E. DESIGNATION OF MUNICIPAL LAND

A council may register a certified copy of a by-law (8) requiring a parcel or part of a parcel of land owned by the municipality or being acquired be designated as MR, SR, MSR, ER or PUL lot.

If a by-law deals with a part of a parcel, subdivision approval is not required. (9) A plan is required to delineate the new parcel if a by-law deals with a part of a parcel.

If a by-law deals with a full lot as shown on a subdivision plan, the plan is amended by adding to the lot number the appropriate designation and a new certificate of title is issued accordingly.

The title to the reserve or PUL lot is issued free and clear of all instruments and caveats except those listed in procedure [SUR-2](#) (item D).

F. DEALINGS WITH RESERVE LOTS

1. While land is designated as reserve, it may not be sold, leased or otherwise disposed of. (10) However, certain instruments such as road plans or utility rights of way may be registered. (11)
2. **Annexation** - If the boundaries of a municipality are altered such that a reserve lot other than an SR is then within another municipality, the lot can be transferred to the other municipality or, if it is within an improvement district or special area, to the Crown (12) by registering an Order in Council or Ministerial Order. (9) [Tariff item 11\(4\)](#) is charged.

STATUTE AND CASE REFERENCES

Statute references are to the Municipal Government Act, R.S.A. 2000, c. M-26, unless otherwise indicated.

1. see procedures on Attestation of Instruments [AFF-1](#), [AFF-2](#) and [COR-1](#)
2. *Fried v. City of Medicine Hat* – unreported decision of the Court of Appeal of Alberta (Calgary Appeal No. 15421, October 4, 1984)
3. s. 675
4. s. 658
5. s. 672
6. s. 673
7. s. 676
8. s. 665
9. s. 652
10. s. 671
11. s. 677 provides for the registration of these instruments if the interests of the public will not be adversely affected.
12. s. 135