

(Consolidated up to 126/2007)

**ALBERTA REGULATION 43/2002
MUNICIPAL GOVERNMENT ACT
SUBDIVISION AND DEVELOPMENT REGULATION**

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Interpretation

1(1) In this Regulation,

- (a) “AEUB” means the Alberta Energy and Utilities Board;
- (b) “building site” means a portion of the land that is the subject of an application on which a building can or may be constructed;
- (c) “food establishment” means food establishment as defined in the *Food Regulation* (AR 240/85);
- (d) “hazardous waste management facility” means hazardous waste management facility as defined in the *Waste Control Regulation* (AR 192/96);
- (e) “landfill” means landfill as defined in the *Waste Control Regulation* (AR 192/96);
- (f) “rural municipality” means a municipal district, improvement district, special area or the rural service area of a specialized municipality;
- (g) “sour gas” means gas containing hydrogen sulphide in concentrations of 10 or more moles per kilomole;
- (h) “sour gas facility” means
 - (i) any of the following, if it emits, or on failure or on being damaged may emit, sour gas:
 - (A) a gas well as defined in the *Oil and Gas Conservation Regulations* (AR 151/71);
 - (B) a processing plant as defined in the *Oil and Gas Conservation Act*;
 - (C) a pipeline as defined in the *Pipeline Act*;
 - (ii) anything designated by the AEUB as a sour gas facility pursuant to section 3;
- (i) “storage site” means a storage site as defined in the *Waste Control Regulation* (AR 192/96);
- (j) “unsubdivided quarter section” means
 - (i) a quarter section, lake lot, river lot or settlement lot that has not been subdivided except for public or quasi-public uses or only for a purpose referred to in section 618 of the Act, or

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(ii) a parcel of land that has been created pursuant to section 86(2)(d) of the *Planning Act* RSA 1980 on or before July 6, 1988, or pursuant to section 29.1 of the *Subdivision Regulation* (AR 132/78), from a quarter section, lake lot, river lot or settlement lot if that parcel of land constitutes more than 1/2 of the area that was constituted by that quarter section, lake lot, river lot or settlement lot;

(k) “wastewater collection system” means a wastewater collection system as defined in the *Wastewater and Storm Drainage Regulation* (AR 119/93);

(l) “wastewater treatment plant” means a wastewater treatment plant as defined in the *Wastewater and Storm Drainage Regulation* (AR 119/93);

(m) “water distribution system” means a water distribution system as defined in the *Environmental Protection and Enhancement Act*.

(2) The definitions in Part 17 of the Act and section 1 of the Act, to the extent that they do not conflict with Part 17, apply to this Regulation.

Bylaw, plan prevails

2 Nothing in this Regulation may be construed to permit a use of land unless that use of land is provided for under a statutory plan or is a permitted or discretionary use under a land use bylaw.

AEUB designations

3(1) The AEUB may designate any well, battery, processing plant or pipeline, as defined in the *Oil and Gas Conservation Act*, not included in section 1(1)(h)(i) as a sour gas facility for the purpose of this Regulation, if it emits, or on failure or on being damaged may emit, sour gas or gas containing hydrogen sulphide in concentrations of less than 10 moles per kilomole.

(2) The AEUB may designate as a sour gas facility for the purpose of this Regulation

(a) a well for which a well licence has been issued under the *Oil and Gas Conservation Act*,

(b) a battery as defined in the *Oil and Gas Conservation Act* the location and construction of which has been approved by the AEUB,

(c) a processing plant as defined in the *Oil and Gas Conservation Act* forming part of a gas processing scheme approved by the AEUB under that Act, or

(d) a pipeline for which a permit has been issued under the *Pipeline Act*,

if the operation of the well, battery, processing plant or pipeline has not commenced at the time the designation is made and the AEUB is satisfied that when it is in operation it will emit, or on failure or on being damaged may emit, sour gas or gas containing hydrogen sulphide in concentrations of less than 10 moles per kilomole.

(3) The AEUB must furnish a copy of each designation and each revocation of a designation made by it under this section to the municipality where the affected sour gas facility is or is to be located.

PART 1 SUBDIVISION APPLICATIONS

Application

4(1) The owner of a parcel of land, or a person authorized by the owner of a parcel of land, may apply for subdivision of that parcel of land by submitting a complete application for subdivision to the appropriate subdivision authority.

(2) A complete application for subdivision consists of

- (a) a completed application for subdivision in the form set out in the *Subdivision and Development Forms Regulation*,
- (b) a proposed plan of subdivision or other instrument that effects a subdivision,
- (c) the required fee,
- (d) a copy of the current land title for the land that is the subject of an application, and
- (e) at the discretion of the subdivision authority, the information required under subsections (3) and (4).

(3) The applicant must submit the number of sketches or plans of the proposed subdivision that the subdivision authority requires, drawn to the scale that the subdivision authority requires,

- (a) showing the location, dimensions and boundaries of
 - (i) the land that is the subject of the application,
 - (ii) each new lot to be created,
 - (iii) any reserve land,
 - (iv) existing rights of way of each public utility, and
 - (v) other rights of way,
- (b) clearly outlining the land that the applicant wishes to register in a land titles office,
- (c) showing the location, use and dimensions of buildings on the land that is the subject of the application and specifying those buildings that are proposed to be demolished or moved,
- (d) showing the approximate location and boundaries of the bed and shore of any river, stream, watercourse, lake or other body of water that is contained within or bounds the proposed parcel of land,
- (e) if the proposed lots or the remainder of the titled area are to be served by individual wells and private sewage disposal systems, showing
 - (i) the location of any existing or proposed wells, and

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- (ii) the location and type of any existing or proposed private sewage disposal systems, and the distance from these to existing or proposed buildings and property lines, and
 - (f) showing the existing and proposed access to the proposed parcels and the remainder of the titled area.
- (4) The applicant must submit
- (a) if a proposed subdivision is not to be served by a water distribution system, a report that meets the requirements of section 23(3)(a) of the *Water Act*,
 - (b) an assessment of subsurface characteristics of the land that is to be subdivided including but not limited to susceptibility to slumping or subsidence, depth to water table and suitability for any proposed on site sewage disposal system,
 - (c) if a proposed subdivision is not to be served by a wastewater collection system, information supported by the report of a person qualified to make it respecting the intended method of providing sewage disposal facilities to each lot in the proposed subdivision, including the suitability and viability of that method, and
 - (d) a description of the use or uses proposed for the land that is the subject of the application.
- (5) The subdivision authority may require an applicant for subdivision to submit, in addition to a complete application for subdivision, all or any of the following:
- (a) a map of the land that is the subject of the application showing topographic contours at not greater than 1.5 metre intervals and related to the geodetic datum, where practicable;
 - (b) if the land that is the subject of an application is located in a potential flood plain and flood plain mapping is available, a map showing the 1:100 flood;
 - (c) information respecting the land use and land surface characteristics of land within 0.8 kilometres of the land that is the subject of the application;
 - (d) if any portion of the parcel of land that is the subject of the application is situated within 1.5 kilometres of a sour gas facility, information provided by the AEUB regarding the location of the sour gas facility;
 - (e) a conceptual scheme that relates the application to future subdivision and development of adjacent areas;
 - (f) any additional information required by the subdivision authority to determine whether the application meets the requirements of section 654 of the Act.

Application referrals

5(1) For the purposes of subsection (5)(d)(i) and (5)(i), “adjacent” means contiguous or would be contiguous if not for a river, stream, railway, road or utility right of way or reserve land.

(2) For the purposes of subsection (5)(e)(i), “adjacent” means contiguous or would be contiguous if not for a railway, road or utility right of way or reserve land.

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- (3) For the purposes of subsection (5)(m), “adjacent land” means land that is contiguous to the land that is the subject of the application and includes
- (a) land that would be contiguous if not for a highway, road, river or stream, and
 - (b) any other land identified in a land use bylaw as adjacent land for the purpose of notifications under section 692 of the Act.
- (4) For the purposes of subsection (5)(e)(ii), the Deputy Minister of the Minister responsible for administration of the Public Lands Act may, in an agreement with a municipality, further define the term “body of water” but the definition may not include dugouts, drainage ditches, man made lakes or other similar man made bodies of water.
- (5) On receipt of a complete application for subdivision, the subdivision authority must send a copy to
- (a) each school authority that has jurisdiction in respect of land that is the subject of the application, if the application may result in the allocation of reserve land or money in place of reserve land for school purposes;
 - (b) the Deputy Minister of Environment if any of the land that is the subject of the application is within the distances referred to in section 12 or 13;
 - (c) if the proposed subdivision is to be served by a public utility, as defined in the *Public Utilities Board Act*, the owner of that public utility;
 - (d) the Deputy Minister of Infrastructure and Transportation if the land that is the subject of the application is not in a city and
 - (i) is adjacent to a highway where the posted speed limit is less than 80 kilometres per hour, or
 - (ii) is within 0.8 kilometres of the centre line of a highway right of way where the posted speed limit is 80 kilometres per hour or greater, unless a lesser distance is agreed to by the Deputy Minister of Infrastructure and Transportation and the municipality in which the land that is the subject of the application is located;
 - (e) the Deputy Minister of the Minister responsible for administration of the *Public Lands Act* if the proposed parcel
 - (i) is adjacent to the bed and shore of a river, stream, watercourse, lake or other body of water, or
 - (ii) contains, either wholly or partially, the bed and shore of a river, stream, watercourse, lake or other body of water;
 - (f) the Deputy Minister of the Minister responsible for the administration of the *Public Lands Act*, if the land that is the subject of the application is within the Green Area, being that area established by Ministerial Order under the *Public Lands Act* dated May 7, 1985, as amended or replaced from time to time except that for the purposes of this Regulation, the Green Area does not include,

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- (i) land within an urban municipality, and
 - (ii) any other land that the Deputy Minister of the Minister responsible for the administration of the *Public Lands Act* states, in writing, may be excluded;
 - (g) the AEUB, in accordance with section 10(1);
 - (h) the Deputy Minister of Environment if any of the land that is the subject of the application is situated within a Restricted Development Area established under Schedule 5 of the *Government Organization Act*;
 - (i) the Deputy Minister of Environment, if any of the land that is the subject of the application is adjacent to works, as defined in the *Water Act*, that are owned by the Crown in right of Alberta;
 - (j) the Deputy Minister of the Minister responsible for the administration of the *Historical Resources Act* if
 - (i) the Deputy Minister has supplied the subdivision authority with a map showing, or the legal description of,
 - (A) the location of each Registered Historic Resource and Provincial Historic Resource under the *Historical Resources Act* or other significant historic site or resource identified by the Deputy Minister, and
 - (B) the public land set aside for use as historical sites under the *Public Lands Act*,

within the jurisdiction of the subdivision authority, and the land that is the subject of the application is within a rural municipality and 0.8 kilometres of a site referred to in paragraph (A) or (B), or is within an urban municipality and 60 metres of a site referred to in paragraph (A) or (B), or
 - (ii) the Deputy Minister and the municipality have agreed in writing to referrals in order to identify and protect historical sites and resources within the land that is the subject of the application;
 - (k) if the land is situated within an irrigation district, the board of directors of the district;
 - (l) the municipality within which the land that is the subject of the application is located if the council, municipal planning commission or a designated officer of that municipality is not the subdivision authority for that municipality;
 - (m) each municipality that has adjacent land within its boundaries, unless otherwise provided for in the applicable municipal or intermunicipal development plan;
 - (n) any other persons and local authorities that the subdivision authority considers necessary.
- (6) Notwithstanding subsection (5), a subdivision authority is not required to send an application for a subdivision described in section 652(4) of the Act to any person referred to in subsection (5).

(7) Notwithstanding subsection (5), a subdivision authority is not required to send a complete copy of an application for subdivision to any person referred to in subsection (5) if the land that is the subject of the application is contained within

- (a) an area structure plan, or
- (b) a conceptual scheme described in section 4(5)(e)

that has been referred to the persons referred to in subsection (5).

AR 43/2002 s5;105/2005;196/2006

Decision time limit

6 A subdivision authority must make a decision on an application for subdivision within

- (a) 21 days from the date of receipt of the completed application in the case of a completed application for a subdivision described in section 652(4) of the Act if no referrals were made pursuant to section 5(6),
- (b) 60 days from the date of receipt of any other completed application under section 4(1), or
- (c) the time agreed to pursuant to section 681(1)(b) of the Act.

Relevant considerations

7 In making a decision as to whether to approve an application for subdivision, the subdivision authority must consider, with respect to the land that is the subject of the application,

- (a) its topography,
- (b) its soil characteristics,
- (c) storm water collection and disposal,
- (d) any potential for the flooding, subsidence or erosion of the land,
- (e) its accessibility to a road,
- (f) the availability and adequacy of a water supply, sewage disposal system and solid waste disposal,
- (g) in the case of land not serviced by a licensed water distribution and wastewater collection system, whether the proposed subdivision boundaries, lot sizes and building sites comply with the requirements of the *Private Sewage Disposal Systems Regulation* (AR 229/97) in respect of lot size and distances between property lines, buildings, water sources and private sewage disposal systems as identified in section 4(4)(b) and (c),
- (h) the use of land in the vicinity of the land that is the subject of the application, and
- (i) any other matters that it considers necessary to determine whether the land that is the subject of the application is suitable for the purpose for which the subdivision is intended.

Reasons for decision

8 The written decision of a subdivision authority provided under section 656 of the Act must include the reasons for the decision, including an indication of how the subdivision authority has considered

- (a) any submissions made to it by the adjacent landowners, and
- (b) the matters listed in section 7.

PART 2
SUBDIVISION AND DEVELOPMENT CONDITIONS

Road access

9 Every proposed subdivision must provide to each lot to be created by it

- (a) direct access to a road, or
- (b) lawful means of access satisfactory to the subdivision authority.

Sour gas facilities

10(1) A subdivision authority must send a copy of a subdivision application and a development authority must send a copy of a development application for a development that results in a permanent additional overnight accommodation or public facility, as defined by the AEUB, to the AEUB if any of the land that is subject to the application is within 1.5 kilometres of a sour gas facility or a lesser distance agreed to, in writing, by the AEUB and the subdivision authority.

(2) If a copy of a subdivision application or development application is sent to the AEUB, the AEUB must provide the subdivision authority or development authority with its comments on the following matters in connection with the application:

- (a) the AEUB's classification of the sour gas facility;
- (b) minimum development setbacks necessary for the classification of the sour gas facility.

(3) A subdivision authority and development authority shall not approve an application that does not conform to the AEUB's setbacks unless the AEUB gives written approval to a lesser setback distance.

(4) An approval under subsection (3) may refer to applications for subdivision or development generally or to a specific application.

Gas and oil wells

11(1) A subdivision application or a development application shall not be approved if it would result in a permanent additional overnight accommodation or public facility, as defined by the AEUB, being located within 100 metres of a gas or oil well or within a lesser distance approved in writing by the AEUB.

(2) For the purposes of this section, distances are measured from the well head to the building or proposed building site.

(3) In this section, "gas or oil well" does not include an abandoned well as defined by the AEUB.

(4) An approval of the AEUB under subsection (1) may refer to applications for subdivision or development generally or to a specific application.

Distance from wastewater treatment

12(1) In this section, “working area” means those areas of a parcel of land that are currently being used or will be used for the processing of wastewater.

(2) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for school, hospital, food establishment or residential use unless, on considering the matters referred to in section 7, each proposed lot includes a suitable building site for school, hospital, food establishment or residential use that is 300 metres or more from the working area of an operating wastewater treatment plant.

(3) Subject to subsection (5), a development authority shall not issue a development permit for a school, hospital, food establishment or residence within 300 metres of the working area of an operating wastewater treatment plant nor may a school, hospital, food establishment or residence be constructed if the building site is within 300 metres of the working area of an operating wastewater treatment plant.

(4) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for the purposes of developing a wastewater treatment plant and a development authority may not issue a permit for the purposes of developing a wastewater treatment plant unless the working area of the wastewater treatment plant is situated at least 300 metres from any school, hospital, food establishment or residence or building site for a proposed school, hospital, food establishment or residence.

(5) The requirements contained in subsections (2) to (4) may be varied by a subdivision authority or a development authority with the written consent of the Deputy Minister of Environment.

(6) A consent under subsection (5) may refer to applications for subdivision or development generally or to a specific application.

Distance from landfill, waste sites

13(1) In this section,

- (a) “disposal area” means those areas of a parcel of land
 - (i) that have been used and will not be used again for the placing of waste material, or
 - (ii) where waste processing or a burning activity is conducted in conjunction with a hazardous waste management facility or landfill;
- (b) “working area” means those areas of a parcel of land
 - (i) that are currently being used or that still remain to be used for the placing of waste material, or
 - (ii) where waste processing or a burning activity is conducted in conjunction with a hazardous waste management facility, landfill or storage site.

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(2) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision for school, hospital, food establishment or residential use if the application would result in the creation of a building site for any of those uses

- (a) within 450 metres of the working area of an operating landfill,
- (b) within 300 metres of the disposal area of an operating or non-operating landfill,
- (c) within 450 metres of the disposal area of a non-operating hazardous waste management facility, or
- (d) within 300 metres of the working area of an operating storage site.

(3) Subject to subsection (5), a development authority shall not issue a development permit for a school, hospital, food establishment or residence, nor may a school, hospital, food establishment or residence be constructed if the building site

- (a) is within 450 metres of the working area of an operating landfill,
- (b) is within 300 metres of the disposal area of an operating or non-operating landfill,
- (c) is within 450 metres of the disposal area of a non-operating hazardous waste management facility, or
- (d) is within 300 metres of the working area of an operating storage site.

(4) Subject to subsection (5), a subdivision authority shall not approve an application for subdivision, and a development authority shall not issue a permit, for the purposes of developing a landfill, hazardous waste management facility or storage site unless

- (a) the working area of a landfill is situated at least 450 metres,
- (b) the disposal area of a landfill is situated at least 300 metres,
- (c) the working or disposal area of a hazardous waste management facility is situated at least 450 metres, and
- (d) the working area of a storage site is situated at least 300 metres

from the property line of a school, hospital, food establishment or residence or building site proposed for a school, hospital, food establishment or residence.

(5) The requirements contained in subsections (1) to (4) may be varied by a subdivision authority or a development authority with the written consent of the Deputy Minister of Environment.

(6) A consent under subsection (5) may refer to applications for subdivision or development generally or to a specific application.

Distance from highway

14 Subject to section 16, a subdivision authority shall not in a municipality other than a city approve an application for subdivision if the land that is the subject of the application is within 0.8 kilometres

of the centre line of a highway right of way where the posted speed limit is 80 kilometres per hour or greater unless

- (a) the land is to be used for agricultural purposes on parcels that are 16 hectares or greater,
- (b) a single parcel of land is to be created from an unsubdivided quarter section to accommodate an existing residence and related improvements if that use complies with the land use bylaw,
- (c) an undeveloped single residential parcel is to be created from an unsubdivided quarter section and is located at least 300 metres from the right of way of a highway if that use complies with the land use bylaw,
- (d) the land is contained within an area where the municipality and the Minister of Infrastructure and Transportation have a highway vicinity management agreement and the proposed use of the land is permitted under that agreement, or
- (e) the land is contained within an area structure plan satisfactory to the Minister of Infrastructure and Transportation and the proposed use of the land is permitted under that plan.

AR 43/2002 s14;105/2005

Service roads

15(1) In this section, “provide” means dedicate by caveat or by survey or construct, as required by the subdivision authority.

(2) Subject to section 16, if the land that is the subject of an application for subdivision is within an area described in section 5(5)(d), a service road satisfactory to the Minister of Infrastructure and Transportation must be provided.

(3) Subsection (2) does not apply if the proposed parcel complies with section 14 and access to the proposed parcel of land and remnant title is to be by means other than a highway.

AR 43/2002 s15;105/2005

Waiver

16(1) The requirements of sections 14 and 15 may be varied by a subdivision authority with the written approval of the Minister of Infrastructure and Transportation.

(2) An approval under subsection (1) may refer to applications for subdivision generally or to a specific application.

AR 43/2002 s16;105/2005

Additional reserve

17(1) In this section, “developable land” has the same meaning as it has in section 668 of the Act.

(2) The additional municipal reserve, school reserve or school and municipal reserve that may be required to be provided by a subdivision authority under section 668 of the Act may not exceed the equivalent of

- (a) 3% of the developable land when in the opinion of the subdivision authority a subdivision would result in a density of 30 or more dwelling units per hectare of developable land but less than 54 dwelling units per hectare of developable land, or

- (b) 5% of the developable land when in the opinion of the subdivision authority a proposed subdivision would result in a density of 54 or more dwelling units per hectare of developable land.

Security conditions

18(1) A development authority may

- (a) require an applicant for a development permit to provide information regarding the security and crime prevention features that will be included in the proposed development, and
- (b) attach conditions to the development permit specifying the security and crime prevention features that must be included in the proposed development.

(2) Subsection (1) applies even if the land use bylaw does not provide for those conditions to be attached to a development permit.

PART 3 REGISTRATION, ENDORSEMENT

Registration

19 On a proposed plan of subdivision,

- (a) environmental reserve must be identified by a number with the suffix “ER”;
- (b) municipal reserve must be identified by a number with the suffix “MR”;
- (c) school reserve must be identified by a number with the suffix “SR”;
- (d) municipal and school reserve must be identified by a number with the suffix “MSR”;
- (e) a public utility lot must be identified by a number with the suffix “PUL”.

Deferral

20 If a subdivision authority orders that the requirement to provide all or part of municipal reserve, school reserve or municipal and school reserve be deferred, the caveat required to be filed under section 669 of the Act must be in the deferred reserve caveat form set out in the *Subdivision and Development Forms Regulation*.

Endorsement

21 When a subdivision authority endorses an instrument pursuant to section 657 of the Act, the endorsement must contain at least the following information:

- (a) the percentage of school reserve or municipal reserve or municipal and school reserve required to be provided under the Act, if any;
- (b) the percentage of money required to be provided in place of all or part of the reserve land referred to in clause (a), if any;
- (c) the percentage of reserve land referred to in clause (a) ordered to be deferred, if any;

- (d) the area covered by an environmental reserve easement, if any.

PART 4 PROVINCIAL APPEALS

MGB distances

22(1) The following are the distances for the purposes of section 678(2)(a) of the Act with respect to land that is subject to an application for subdivision:

- (a) the distance with respect to a body of water described in section 5(5)(e);
- (b) the distance, from a highway, described in section 14 or the distance, from a highway, described in an agreement under section 5(5)(d)(ii);
- (c) the distance, described in section 12, from a wastewater treatment plant;
- (d) the distances, described in section 13, from the disposal area and working area of a waste management facility.

(2) For the purposes of this section,

- (a) “wastewater treatment plant” means a sewage treatment facility;
- (b) “waste management facility” means a landfill, hazardous waste management facility or storage site.

PART 5 TRANSITIONAL PROVISIONS, REPEAL, EXPIRY AND COMING INTO FORCE

Transitional

23 An application for subdivision made under the *Subdivision and Development Regulation* (AR 212/95) and received by the appropriate subdivision authority on or before June 30, 2002 shall be continued to its conclusion under that Regulation as if that Regulation had remained in force and this Regulation has not come into force.

Repeal

24 The *Subdivision and Development Regulation* (AR 212/95) is repealed.

Expiry

25 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2009.

AR 43/2002 s25;126/2007

Coming into force

26 This Regulation comes into force on July 1, 2002.