

Re-use of Surplus School Reserve Sites

ISC: UNRESTRICTED

1.0 INTRODUCTION AND BACKGROUND

On 2005 May 16, Council approved LAS2005-81 Disposal of Surplus School Building Envelopes, including a "Proposed Planning Process for Surplus School Building Envelopes". This process, approved by Council, was based on the Municipal Government Act provisions for reserve land in place at the time, which required the disposition of the reserve if a surplus site was to be redeveloped to any use other than park, school or recreation purposes.

On 2007 June 25 Council passed NM2007-19 which reads:

- (i) *that the Mayor be requested to enter into negotiations/discussions with the Province and the School Boards to identify vacant (undeveloped) school building sites in existing communities and enable their use for other public uses such as affordable housing and other community needs including libraries; and*
- (ii) *that Administration be requested to develop planning principles and guidelines to be applied on a site specific basis for vacant school building sites that are surplus to the School Board's needs to encourage and promote complete and sustainable communities.*

Partly as a result of that motion, the Provincial Government established a Committee on Surplus School sites and buildings with representation from The City of Calgary and City of Edmonton and the relevant school boards. That group made a series of recommendations to the Provincial Government that resulted in amendments to the Municipal Government Act (MGA) related to use of reserve land that is no longer required for school purposes.

These changes provide The City with the opportunity to retain this land as open space or to use this land for a wide variety of community/public services including affordable housing. This offers The City an ability to provide needed services within established communities by using land that would otherwise have been occupied by school buildings.

This report sets out Administration's recommendations on strategic principles and a decision process to take advantage of this opportunity.

1.1 Legislative Changes

In December 2008, the Provincial Government passed Bill 41 to amend Section 671 of the Municipal Government Act to create a new classification of reserve, named Community Service Reserve (CSR). It is anticipated that Bill 41 will come into effect later in 2009 and the Provincial Government is also expected to introduce new regulations with respect to the declaration of surplus reserve sites by school boards and the definition of school board uses.

Re-use of Surplus School Reserve Sites

The intent of the new legislation is to allow a range of additional public service uses on the school building envelope portion of surplus school reserve sites. The legislation addresses both vacant school reserve sites and sites that may contain an existing school building and only applies to existing SR or MSR sites that are no longer needed for school purposes. It does not apply to the creation of new reserve sites in new subdivisions. Under the legislation, decisions on whether to declare a school reserve site surplus rest with the school board and the Province. Once declared surplus, decisions on the use or re-use of a surplus site then rest with the Council of the municipality.

The amendments to the MGA introduced through Bill 41 are contained in Appendix 1. The key provisions of these changes to the Act are that, upon a school board declaring a reserve site surplus to its needs, ownership of the site must be transferred to The City. Council can then make a decision to:

- (a) designate the entire parcel as Municipal Reserve (MR) which allows it to be used for the following purposes under MGA Section 671(2):
 - (i) a public park;
 - (ii) a public recreation area;
 - (iii) school board purposes;
 - (iv) to separate areas of land that are used for different purposes.

- (b) designate the school building envelope portion of the reserve land as Community Service Reserve (CSR) which would allow the land to be used for the following purposes:
 - (i) a public library;
 - (ii) a police station, a fire station or an ambulance services facility, or a combination of them;
 - (iii) a non-profit day care facility;
 - (iv) a non-profit senior citizens facility;
 - (v) a non-profit special needs facility;
 - (vi) a municipal facility providing service directly to the public;
 - (vii) affordable housing.

- (c) dispose of the land through the normal Reserve Disposition process.

Other amendments allow the Minister of Education to define “school board purposes” through Regulation and provide for the proceeds of the disposition of CSR lands to be dealt with separately from the proceeds of other reserve disposition.

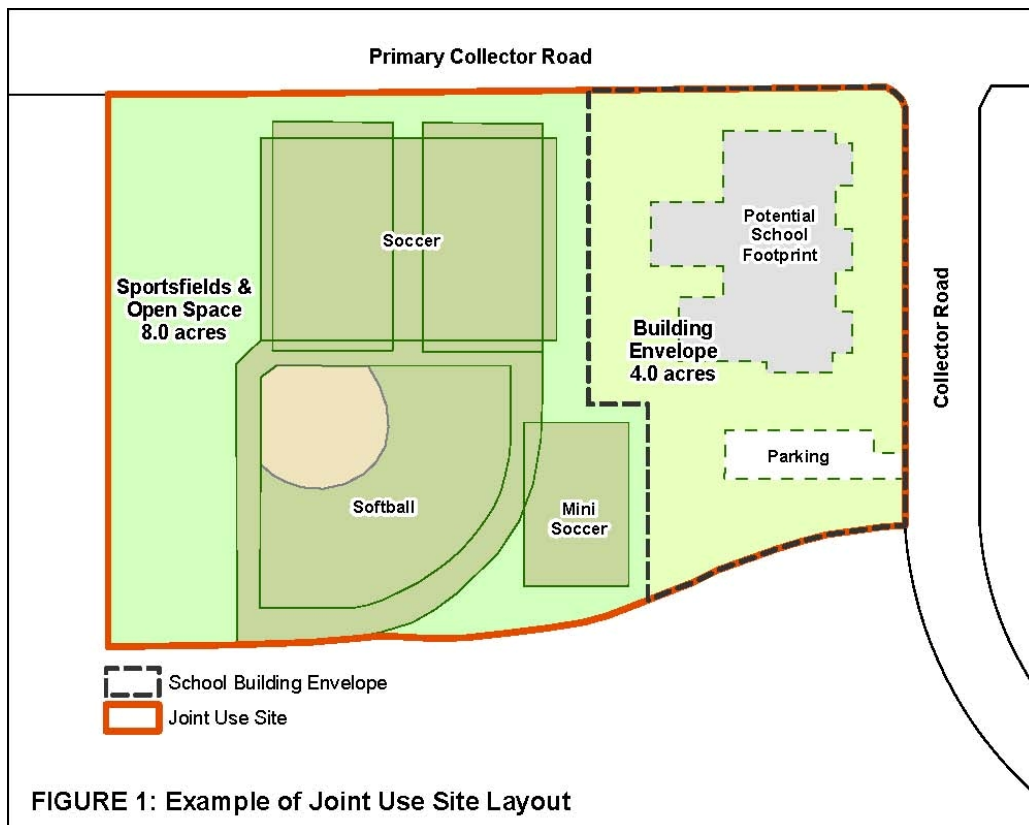
1.2 Characteristics of School Reserve Sites

Since the 1960's, school reserve sites have been dedicated at the time of subdivision in new suburban areas and have generally been planned and located as a portion of a larger Joint Use Site, providing for both school and local public park and recreation use. Under the Joint Use Agreement between The City and the two Calgary public school boards, these Joint Use Sites typically include a school building envelope portion, to accommodate the actual school building and parking lot, as well as an open space area for park and playfields to serve both the school and the local community.

Re-use of Surplus School Reserve Sites

The land is designated as School Reserve (SR), Municipal Reserve (MR) or Municipal & School Reserve (MSR) on the title and the site may be vacant or may contain an existing school building.

Joint use sites are generally in the order of 10 to 12 acres in size, of which the school building envelope portion is typically 3 to 4 acres. Sites are normally located on internal collector roads of communities, often with dual frontages and access. They are fully serviceable with good access to transit. Figure 1 below shows how a school building envelope would typically fit within a larger Joint Use reserve parcel.



School reserve sites with the potential to be considered surplus will typically be located within the band of communities developed in the 1970's, 1980's and 1990's. The new CSR provisions will not apply to most school sites in older inner city communities which were created prior to the reserve provisions of the MGA.

Re-use of Surplus School Reserve Sites

1.3 Identification of Surplus School Reserve Sites

School boards are responsible for the determining school needs and for identifying where and when sites are no longer needed for school purposes. It is their responsibility to declare school sites as surplus, subject to ratification by the Minister of Education. Although The City may be consulted or advised prior to the declaration of a site as surplus, Council has no formal role in this process.

A decision to surplus a school site is driven primarily by declines in school age population and enrolment demands, generally as a result of normal community lifecycle patterns. Over time, there is a steady and predictable ageing of the community population and consequently the needs for schools and other services change accordingly. Construction of new schools in developing areas can also affect enrolment demands in existing schools that serve as bus receivers.

Currently, the Calgary Board of Education and the Calgary Separate School Board have identified an initial list of 16 surplus school sites, which are identified in Appendix 2. All are vacant sites, originally intended for schools but where buildings were never constructed.

It should be noted that two of these sites have since been addressed. Site No. 2 in Greenbriar was declared surplus in order to rescind an older plan of subdivision which did not proceed. This reserve site no longer exists. Site No. 9 in the community of Temple has since been developed to incorporate a storm water management facility in order to address storm water issues in the area.

It is anticipated that additional sites will likely be declared surplus by both school boards in the future.

2.0 PRINCIPLES

It is proposed that The City of Calgary use the following principles to guide its decision making with respect to the re-use of surplus school reserve sites. These principles provide a basis for considering alternative uses that meet a range of public objectives, while ensuring that current Council policies and standards for local open space are maintained.

- a) Priority should be given to retaining reserve sites as a long-term land base that can be used to meet the evolving needs of Calgarians, at both a community and city-wide level.
- b) Ensure that Council's approved policies and standards for local community open space are met prior to considering the lands for other uses.
- c) When considering alternative CSR uses, priority should be given to:
 - a. Uses and services which The City provides directly;

Re-use of Surplus School Reserve Sites

- b. Uses and services that meet both local community needs and broader city-wide needs;
 - c. Multi-use facilities/partnerships where possible;
 - d. Uses and facilities that can be funded and implemented within a reasonable time frame and that are addressing current needs; and
 - e. Uses that support Council's strategic policies for sustainable development and the creation of complete communities.
- d) The area of land to be considered for CSR uses shall be limited to the area identified as the school building envelope. Where a site is vacant, the school building envelope shall be based on the area identified on the original outline plan, where available, or as determined through normal planning standards for joint use sites. Where a school building exists, the envelope shall be based on the existing school building and associated parking and circulation areas.
- e) The boundaries of the school building envelope may be adjusted to facilitate appropriate development, provided:
- a. the area of land removed from MR does not exceed the area of the original school building envelope; and
 - b. the adjustments do not adversely impact the use of the balance of the reserve parcel for open space and recreational purposes.
- f) Any new development shall have regard to good planning principles, including:
- a. compatibility with its location and with adjacent uses;
 - b. compatibility with available transportation and servicing capacity; and
 - c. ensuring that it not detract from the function and character of the adjacent open space/park use.
- g) Provide timely and effective opportunities for consultation with adjacent residents, communities and CSR service providers when considering CSR development proposals.
- h) Any re-use of a site for CSR purposes should follow normal City processes for land use and development approvals and other applicable regulatory requirements.

3. PROPOSED COUNCIL DECISION PROCESS

Many of the potential Community Services Reserve Uses now accommodated by the MGA are not currently delivered by The City, such as non-profit facilities and housing for seniors, special care and health facilities and non-profit child care. In other cases, The City may be only one of a number of agencies providing CSR uses, such as affordable housing or recreation facilities. It is expected that there will be significant interest on the part of third party organizations and agencies in locating services on surplus reserve sites.

In light of this, and given the significant number of sites likely to be affected, it is proposed that the decision process be "tiered" or staged, as set out below and in Figure 2.

Re-use of Surplus School Reserve Sites

Stage 1 Determine if the land is required to meet Council approved open space standards

Each site would be assessed against existing Council policies for local community open space. Current policies include the provision of 10% open space by community district, as well as a minimum of 2 ha./1000 population. This assessment stage would also provide an opportunity for the Administration to identify any other site specific factors that may be relevant to a decision on open space, such as proximity of significant redevelopment areas (e.g. TOD sites), accessibility to regional parkland, significant site topographic constraints, etc.

Results would be reported to Council through the appropriate Standing Policy Committee. Surplus school sites required to meet local open space standards would be retained as MR. Where a site is not required for local open space, Council would designate the school building envelope as Community Services Reserve and direct the Administration to identify alternative CSR uses.

Stage 2 Identify those sites required for City of Calgary purposes

A detailed technical analysis would be prepared for each site and circulated to all City Business Units. City of Calgary purposes could involve a stand-alone City facility, such as a fire station, or could include multiple use partnerships with outside organizations, such as a combined emergency response facility or an affordable housing partnership. This stage could also identify potential sites for Council's proposed Attainable Homeownership Program.

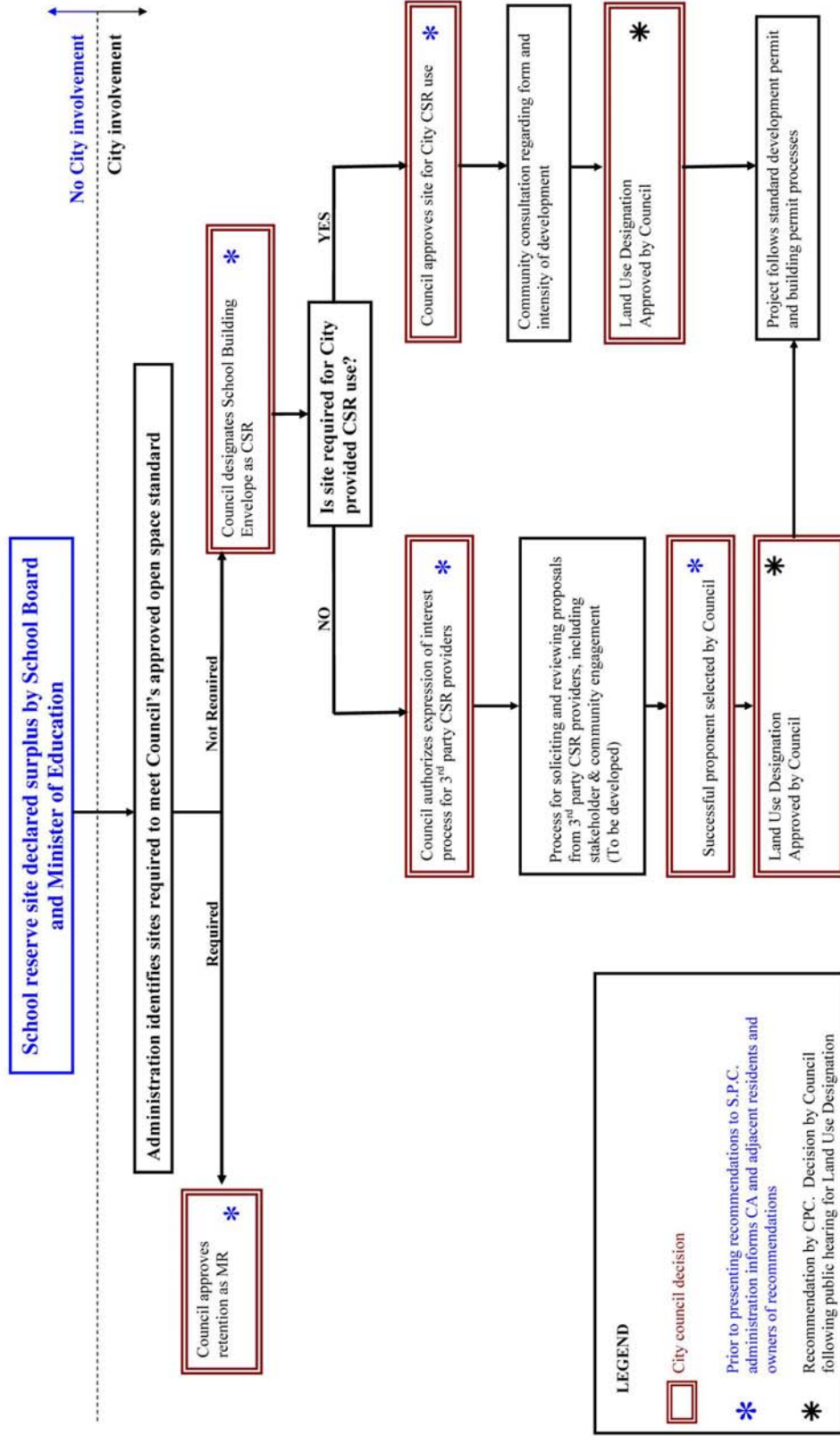
Recommendations would be reported to Council through the appropriate Standing Policy Committee. Once a proposed use has been approved by Council, Administration would follow the normal land use redesignation and development permit processes for that use.

Stage 3 Solicit proposals from Third Party CSR providers

If it is determined that the land is not required for current or future City of Calgary needs, The City will solicit and evaluate proposals from other public and non-profit agencies for eligible CSR proposals, using a review process and evaluation criteria to be developed by Administration and presented to Council in a future report. Once a "third party" use has been approved by Council, the proponent would be required to follow normal land use redesignation and development permit processes for that use.

Re-use of Surplus School Reserve Sites

Figure 2 Proposed Council Decision Process



Re-use of Surplus School Reserve Sites

4. STAKEHOLDER ENGAGEMENT

In considering the need for land to be retained as open space, or whether a school building envelope should be used for a CSR purpose provided directly by The City, the Administration shall undertake its evaluation and present a report to the appropriate S.P.C.

Prior to presenting such report the Administration shall inform the affected Community Association(s) of the recommendation and notify them of the opportunity to provide written and/or verbal submissions to the S.P.C.

The new provisions of the MGA allow Council waive the normal public notification and public hearing requirements of the MGA when making planning decisions on CSR uses, (i.e. for land use redesignations and statutory plan amendments). The Administration recommends, however, that The City continue to adhere to Council's Engage policy and to follow normal City engagement, notification and public hearing processes for planning and development decisions.

Where Council approves a school building envelope for a CSR use by The City, the Administration would follow its normal procedures for public engagement on land use redesignations with respect to that use.

Where it is determined that a school building envelope is not required either for open space or for a City facility, a new process should be developed for soliciting and evaluating proposals from "third parties" - other public and non-profit groups entitled to locate on CSR land. The details of this process should be developed in consultation with both community and external CSR providers, and should address how these stakeholders can be most effectively involved in the evaluation and review process.

5. LAND USE BYLAW IMPACTS

The Land Use Bylaw 1P2007 currently regulates MR and MSR sites through the Special Purpose – School Park and Community Reserve District (S-SPR), which reflects the uses allowed on school reserve sites prior to Bill 41 and the introduction of Community Service Reserves.

The Administration will examine whether to amend the Land Use Bylaw in order to incorporate specific provisions for Community Services Reserve sites. There are a number of possible approaches to be considered, for example:

- expansion of the S-SPR district to incorporated the new CSR uses;
- creation of a new S-CSR district that could be applied to sites following approval of CSR reserve designation by Council; and/or
- site specific redesignations to one of the standard Land Use Bylaw districts or to Direct control, once a specific use has been identified for a site.

This review will be carried out as part of the implementation program. Pending any overall change in the LUB, land use designations will be applied on a site by site basis, as re-use decisions are brought forward.

Re-use of Surplus School Reserve Sites

Bill 41 provides only a very general description of uses allowable on CSR sites. In order to provide greater clarity on potential CSR uses, the Administration has developed a more detailed series of definitions that it believes would fall within the general provisions of Bill 41, and that more closely align with The City's Land Use Bylaw and affordable housing policies (Appendix 3).

6. IMPLICATIONS FOR THE JOINT USE AGREEMENT

Most reserve land in Calgary is currently governed by the provisions of the Joint Use Agreement between The City, The Calgary Board of Education and the Calgary Separate School Board. The key principles of that Agreement are that reserve land and monies are held in trust by all three parties and that any decisions made under that trust must be made in the best interest of all Calgarians. This agreement should be reviewed in the context of the new legislative provisions related to Community Services Reserve land. Changes could be required to:

- Accommodate the revised definition of "school board purposes" that is expected as part of the Regulations that will be approved prior to the Act being promulgated; and
- Establish mechanisms for determining the allocation of moneys received from the disposition of surplus school building envelopes in the event they are not used for MR or CSR purposes.

7. IMPLEMENTATION

Implementation will commence on approval of this report by Council. Calgary Parks will prepare the initial evaluation of surplus school reserve sites, to identify those sites which should be retained as open space, and those sites where the school building envelope should be considered for alternative uses.

Asset Management and Capital Works will be responsible for identifying any City of Calgary needs and potential projects, as well as for developing and managing the detailed process for soliciting and evaluating proposals from "third party" CSR providers. Resource requirements to support the implementation process will be identified in a future report and brought to Council through the 2010 Budget Adjustment process.

The Administration will also monitor and assess the results of the principles and decision processes recommended in this report as the initial list of surplus sites are addressed.

Re-use of Surplus School Reserve Sites

Appendix 1

**BILL 41:
MUNICIPAL GOVERNMENT
Extracts from AMENDMENT ACT, 2008 (NO. 2) Not yet proclaimed**

Note Key sections are highlighted

1 **The *Municipal Government Act* is amended by this Act.**

4 **Section 616 is amended**

(a) by adding the following after clause (a.1):

(a.2) “community services reserve” means the land designated as community services reserve under Division 9;

(b) by adding the following after clause (r):

(r.1) “non-profit”, in respect of a day care, senior citizens or special needs facility, means that the facility is owned or operated by a corporation or other entity established under a law of Canada or Alberta for a purpose other than to make a profit;

(c) by repealing clause (bb) and substituting the following:

(bb) “school board” means the board of trustees of a school district, school division or regional division;

(d) by repealing clause (zz) and substituting the following:

(z) “reserve land” means environmental reserve, municipal reserve, community services reserve, school reserve or municipal and school reserve;

5 **Section 671 is amended**

(a) by adding the following after subsection (2):

(2.1) Community services reserve may be used by a municipality for any or all of the following purposes:

(a) a public library;

(b) a police station, a fire station or an ambulance services facility, or a combination of them;

(c) a non-profit day care facility;

(d) a non-profit senior citizens facility;

(e) a non-profit special needs facility;

Re-use of Surplus School Reserve Sites

- (f) a municipal facility providing service directly to the public;
- (g) affordable housing.

(b) by adding the following after subsection (4):

- (5) For the purposes of subsection (2)(c), “school board purposes” means those purposes as determined by the Minister of Education under subsection (6).
- (6) The Minister of Education may, by order, determine school board purposes for the purposes of subsection (5).
- (7) An order made under subsection (6) is exempt from the application of the *Regulations Act*.
- (8) The Minister of Education must publish in The Alberta Gazette a notice of any order made under subsection (6) and information about where copies of the order may be obtained or are available to the public.

6 Section 672 is repealed and the following is substituted:

Transfer of school and other reserves to municipality

672(1) If a school board holds an interest in a school reserve, municipal and school reserve or municipal reserve under this Part or the former Act and declares that the reserve is surplus to the school board’s needs, the school board must transfer its interest in the land to the municipality where the reserve is located, for the consideration agreed on between them.

(2) On the registration in a land titles office of a transfer of land or an interest in land under subsection (1), the Registrar must designate the land as municipal reserve.

(3) Despite subsection (2), the council of a municipality may by bylaw require the school building envelope of the school reserve, municipal and school reserve or municipal reserve referred to in subsection (1) to be designated as community services reserve, in which case the Registrar, on receipt of a copy of the bylaw and a survey plan on which the school building envelope is outlined, must

- (a) issue a new certificate of title for the school building envelope with the designation of community services reserve, which must be identified by a number suffixed by the letters “CSR”, and
- (b) issue a new certificate of title for the remaining land with the designation of municipal reserve, which must be identified in accordance with section 665(2)(a).

Re-use of Surplus School Reserve Sites

(4) The certificate of title for a community services reserve or a municipal reserve under this section must be free of all encumbrances as defined in the *Land Titles Act*.

(5) In subsection (3), “school building envelope” means

- (a)** the portion of the reserve on which a school building and accompanying parking lot is situated, or
- (b)** if no school building is situated on the reserve, the area of land on which a school and accompanying parking lot would be located if they had been built as determined by the municipality.

7 Section 674 is amended

- (a)** in subsection (1)(a) by adding “or community services reserve” after “municipal reserve”;
- (b)** in subsection (2) by adding “, community services reserve” after “municipal reserve”.

8 Section 675 is amended

- (a)** in subsection (1)
 - (i)** by adding “or community services reserve” after “case of municipal reserve”;
 - (ii)** by adding “, community services reserve” after “designation of municipal reserve”;
- (b)** by repealing subsection (3) and substituting the following:
 - (3)** On removal of the designation, the municipality or the municipality and the school board may sell, lease or otherwise dispose of the land, but the proceeds from the sale, lease or other disposition may be used
 - (a)** in the case of the sale, lease or other disposition of a municipal reserve or a municipal and school reserve, only for any or all of the purposes referred to in section 671(2) or for any matter connected to those purposes, and
 - (b)** in the case of the sale, lease or other disposition of a community services reserve, only for any or all of the purposes referred to in section 671(2.1) or for any matter connected to those purposes.

9 Section 692 is amended by adding the following after subsection (6):

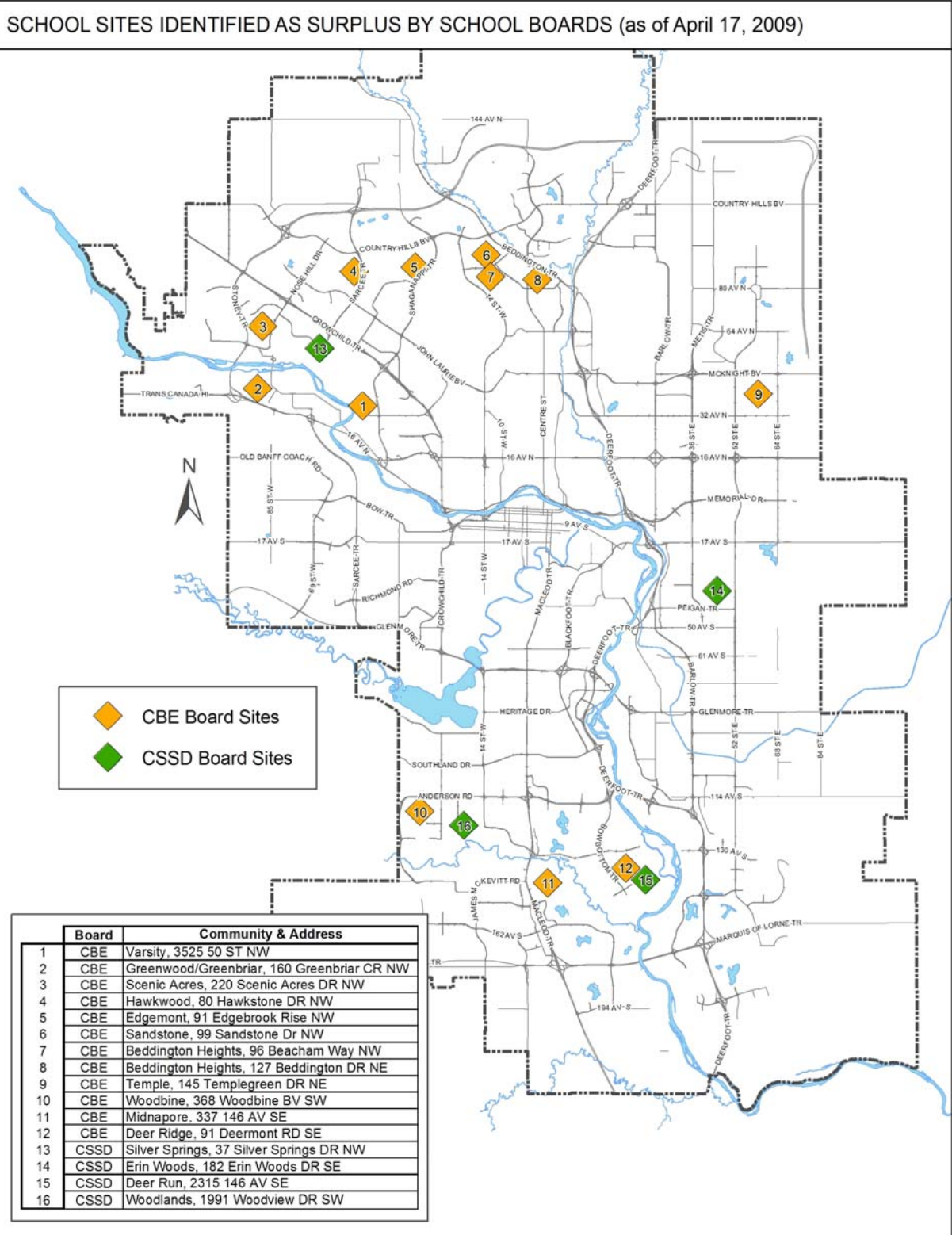
Re-use of Surplus School Reserve Sites

(6.1) Subsection (1)(f) does not apply in respect of a proposed bylaw amending a statutory plan or land use bylaw to specify the purposes of a community services reserve.

12 Sections 4 to 11 come into force on Proclamation.

Re-use of Surplus School Reserve Sites

Appendix 2



Re-use of Surplus School Reserve Sites

Appendix 3

CITY DEFINITIONS OF COMMUNITY SERVICE RESERVE (CSR) USES:

Public library:

A facility that is a building or part of a building, housing library services and operated by the Calgary Public Library Board.

Police Station, Fire Station or Ambulance Services Facility:

A facility that is a building or part of a building, housing protective and emergency services to the public, operated by government. Such facilities could provide either a singular service or a combination of such services.

Non-profit day care facility:

A facility that is a building or part of a building, operated by a non-profit organization*, to provide care and supervision, to seven or more children under the age of 14 years for periods of less than 24 consecutive hours, and that includes day cares, pre-schools, out of school care and other programs where the primary purpose is the care of children.

Non-profit senior citizens facility:

A facility that is a building or part of a building, operated by a non-profit organization*, to provide accommodation, care, educational, social, recreational or leisure activities for seniors.

Non-profit special needs facility:

A facility that is a building or part of a building, operated by a non-profit organization*, to provide specialized services or accommodation and care for people with physical or mental disabilities, youth, seniors, individuals and children fleeing from violence. Such special needs facilities would include residential care, assisted living, half-way houses for custodial care, detoxification centres, emergency and temporary shelters, and health care facilities that may or may not be operated by the government

Municipal facility providing service directly to the public:

A facility that is a building or part of a building, operated by The City, to offer services directly to the public, such as licensing or permits, bill payment, information, recreational or cultural facilities, and animal services, but excluding

Re-use of Surplus School Reserve Sites

operational services not accessible to the public such as public works yards and storage depots.

Affordable housing:

Affordable housing adequately suits the needs of low and moderate income households at costs below those generally found in the Calgary market. It may take a number of different forms that exist along a housing continuum that includes non-market rental and ownership (subsidized) and entry level market rental and ownership.

* Note:

Non-profit organization (under MGA Section 241 (f)) is defined as:

- (i) a society, credit union or co-operative established under a law of Canada or Alberta;
- (ii) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or
- (iii) any other entity established under a law of Canada or Alberta for a purpose other than to make a profit.