Policy Name

Environmental Reserve Dedication

Policy Number

PD-7

Policy Statement

Brazeau County is committed to ensuring the protection and preservation of environmentally significant and sensitive areas through the subdivision process in accordance with provincial regulations, the Brazeau County Municipal Development Plan, and through the development of formal municipal policies.

Policy

The *Municipal Government Act*, RSA 2000, Chapter M-26.1, and amendments thereto (the "Act") provides for the dedication of environmental reserve (ER) and environmental reserve easement (ERE). Certain areas, as set out in this Policy, are essentially undevelopable and/or serve important water management purposes and should be conserved and left in their natural state utilizing the means permitted by the Act. These areas include those identified as either environmentally sensitive lands or environmentally significant areas (ESAs). Brazeau County, however, does not wish to sterilize the use of lands; as a result this Policy is established to balance preservation of these areas, while maintaining the landowner's right to access their land.

The purpose of this Policy is to provide additional clarification as to the requirements for environmental reserve dedication and the consideration for when to implement either ER dedication or ERE dedication. This Policy recognizes, and is adopted to put mechanisms in place to realize, the policy statements contained within the Brazeau County Municipal Development Plan.

Decisions involving environmental reserve dedication are complex and require the exercise of judgement, based upon technical information and expert advice. For this reason, a policy is needed for the decision-making process, to ensure that it operates in a fair and consistent manner. The following are the options to be applied by the Subdivision Authority in making decisions regarding environmental reserve dedication.

1. Environmental Reserve Dedication

The Act provides the legislative requirements for the dedication and purpose of ER and ERE land. Brazeau County has provided additional policies for dedication within the Natural Environment section of the County's Municipal Development Plan.

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This Policy applies to all subdivision applications submitted to Brazeau County which contain environmentally sensitive lands or ESAs. For the purpose of this Policy, environmentally sensitive lands and ESAs include those outlined in section 664 of the Act or any statutory plan document that Brazeau County Council has approved.

1.1 What Environmental Reserve means

A Subdivision Authority may require the landowner of a parcel that is subject to a proposed subdivision to provide for the protection of an environmentally sensitive area or ESA if it consists of the natural features described in section 664 of the Act. The protection of the area may be done through either an ER or ERE dedication. ER or ERE should be taken unless it can be demonstrated, to the satisfaction of the Subdivision Authority, that environmental reserve dedication is unnecessary or impractical under the circumstances and the environmentally sensitive area can be conserved and protected in a satisfactory alternative manner.

For greater clarity below is further detail as to the description of each of the noted descriptions within section 664(1).

- Brazeau County defines a swamp as land classified as a swamp under the provincial wetland classification.
- The definition of a natural drainage course is defined at the end of this Policy, which includes gullies, ravines and coulees.
- For clarity the definition of flood and floodplain have been included within this policy, which will be used by the Subdivision Authority in determining if the parcel of land is subject to flooding.
- For the stability of land the definition of Hazardous Area at the end of this Policy will be used for consideration.
- Although the Act states a strip of land not less than 6 metres in width, abutting the bed and shore of any Water Body; Brazeau County has opted for a strip of land not less than 6.1 metres.

1.2 Purpose of Environmental Reserve lands

Section 664 of the Act provides details as to the four purposes of dedicating land as ER. This section is to provide additional clarification regarding the implementation of section 664 of the Act within Brazeau County.

According to the Act the purpose of ER is to:

- preserve the natural features of land referred to in the Act,
- prevent pollution of land or bed and shore of a water body,
- ensure public access to and beside the bed and shore of a water body, or

- to prevent development of land where the natural features of the land would present a risk of personal injury or property damage.

The Act states that one purpose is to ensure public access to and beside the bed and shore of a Water Body. It is not Brazeau County's intent to allow public access on private land. Therefore, if the reserve land is intended to allow for public access to the bed and shore of a Water Body the dedication will be ER to allow the land to be transferred into County ownership. If statutory documents, including Intermunicipal Development Plans, the Municipal Development Plan or Area Structure Plans identify the location as allowing public access to and beside the bed and shore of a Water Body, even if it is located on private land, ER will be taken for the purpose of allowing access.

The focus for Brazeau County with respect to the dedication of ER or ERE is to protect and preserve natural features within the municipality, while also considering the safety of people and property when making decisions.

1.3 Environmental Reserve Not Required

In accordance with section 663 of the Act, the Subdivision Authority may not require the dedication of reserve land, including environmental reserve, within four situations. These situations include:

- one lot being created from a quarter section of land,
- land is being subdivided into lots of 16.0 hectares (40 acres) or more and to be used only for agricultural purposes,
- land is being subdivided is 0.8 hectares (2.0 acres) or less, or
- reserve land, environmental reserve easement or money in place of it was provided in respect of the land that is subject to the proposed subdivision.

Even if the proposed subdivision is included within one of these situations, the Subdivision Authority may require environmental reserve dedication if it is determined to be required to conserve and protect an environmentally sensitive area. If the Subdivision Authority determines ER is not required at the time of subdivision they may recommend that any new lot lines be aligned to accommodate the dedication of ER or ERE upon the future subdivision of the subject lands.

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2. Environmental Reserve Decisions

The Act and Brazeau County's Municipal Development Plan state that ER or ERE may be required at the time of subdivision. Below are considerations for Administration and the Subdivision Authority to consider when making a decision about protecting the environment through either an ER or ERE dedication.

2.1 The Subdivision Authority must take into consideration:

(i) Provincial legislation, including but not limited to the *Municipal Government Act*, *Water Act* and the *Public Lands Act*;

(ii) Provincial frameworks and regional plan requirements;

(iii) Intermunicipal Development Plan policies;

(iv) Municipal Development Plan policies;

(v) Other municipal statutory plans (e.g. Area Structure Plans or Area Re-Development Plans); and

(vi) The number of lots or subdivision density being proposed.

2.2 Dedication of ERE

Environmental Reserve Easement means the land remains in the ownership of the landowner, but must be maintained in its natural state, subject to an agreement signed between the owner and the municipality and registered on the title of the land. The easement serves as notice to future landowners that a specific portion of land is required to remain in its natural state. The following shall be considered by the Subdivision Authority:

(i) ERE is preferred to the creation of an ER parcel, so that the land remains in the possession of the landowner. The use of an ERE lends itself well within rural subdivisions, where wetlands and natural drainage channels are an important part of managing surface water flow and providing for recharge of the area aquifers (groundwater).

(ii) Administration may recommend that ERE encompass those lands necessary to conserve and protect the environmentally sensitive area or ESA.

(iii) Dedication of ERE on a remnant parcel (meaning the portion of a quarter section which is not being subdivided) shall not be required provided that those lands maintain the Agricultural (AG) land use zoning, and dedication of ER or ERE is not a recommendation provided through the consultation process.

(iv) The parcel(s) being subdivided from the quarter section, if less than fifteen (15)

acres, shall be subject to the dedication of an ERE.

(v) If the Subdivision Authority deems the dedication of an ERE necessary, the requirement will be a condition of subdivision and shall run with the land.

(vi) The area of the ERE shall be established through a sketch prepared by the applicant/landowner's surveyor identifying the top-of-bank of rivers and ravines or Water Body edge, including the minimum 6.1 metre setback from that defined area.

2.3 Subdivision of an ER Parcel

Environmental Reserve parcels are land that must be subdivided as an "ER" parcel and transferred to the municipality. This changes the ownership of the land to the municipality and creates a separate titled parcel.

(i) The creation of an ER parcel, if required by the Subdivision Authority pursuant to a Brazeau County statutory plan or a request by the applicant/landowner, shall be a condition of subdivision.

(ii) The applicant/landowner shall be responsible for the surveying and subdivision of the ER parcel, which shall be transferred to Brazeau County with an ER designation.

2.4 Potential Additional Information Requirements

Environmental reserve decisions are subjective, due to the changing nature of the environment. The Subdivision Authority may require additional information to be provided prior to making a decision regarding ER or ERE. Prior to making a decision on a subdivision with the potential for ER or ERE, the Subdivision Authority may require a landowner and/or an applicant to submit:

(a) geotechnical information (e.g. slope stability tests; geomorphology studies),

(b) hydrological information (e.g. water table tests; floodplain reports),

(c) topographical information (e.g. contour maps, site constraint maps), or

(d) such other information as is necessary to assess the environmental sensitivity of the subject area.

This information is required to ensure that the decision is based on sound analysis, that regional and local interests are taken into account, and that if challenged, the decision is supported from a technical standpoint.

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3. Environmental Reserve Common Definitions

For the purpose of this Policy, the following definitions shall apply:

Council means the duly elected Council of Brazeau County.

Environmental Reserve (ER) means lands defined as Environmental Reserve in the *Municipal Government Act*.

Environmental Reserve Easement (ERE) means an easement created and registered on the title of the subject land for the purposes specified in the *Municipal Government Act*.

Environmentally Sensitive Lands means areas that have landscape elements or places which are vital to the long-term maintenance of biological diversity, soil, water or other natural resources both on the site and in a regional context. Brazeau County's MDP Figure 4: Future Land Use Strategy identifies a number of these identified areas that represent lands that have particular constraints to development due to environmental features such as watercourses, wetlands, significant flora or fauna, or wildlife habitat.

Environmentally Significant Areas (ESAs) means areas that are important to the long-term maintenance of biological diversity, physical landscape features and/or other natural processes, both locally and within a larger spatial context as defined by the Province.

Floodplain means an area of low-lying ground adjacent to a river, creek or stream, which stretches from the banks of its channel to the base of the enclosing valley walls, and which experiences flooding during periods of high discharge. Where available, this information will be obtained from the provincial department responsible for the environment.

Flood means an overflow of water that submerges land that is usually dry and may occur as an overflow of water from any type of Water Body, resulting in water escaping its usual boundaries.

Hazardous Area means an area that is unstable and may include lands prone to flooding, shoreline erosion, slope instability hazards or any hazard that may result in life loss or injury, property damage, social or economic disruption of environmental degradation. This includes, but is not limited to, lands in proximity to the flood fringe or floodway, high water table, water bodies and watercourses.

High Water Mark means the location along the bed and banks of a water body where the presence and action of water is so common and usual, and so long continued in all ordinary years, that it creates a difference in vegetation, soil and debris on the other side of the mark. This is sometimes referred to as "bankfull width" or "active channel width" when related to a fluvial system.

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Natural Drainage Course means a defined path or channel formed by the natural flow of water, whether water is currently present or not. The drainage course generally follows a natural pathway and is fed primarily by natural sources. Natural drainage courses include ravines, coulees and gullies.

Shoreland means the beds and shores of all lakes, rivers, streams and any permanent and naturally occurring water bodies within Alberta. The area between the water edge and the bank (i.e. the ordinary high water mark) forms the shores of the water body. This area contains flora and fauna essential to the ecology of the Water Body.

Subdivision Authority means the authority established by Council to exercise subdivision powers and duties on behalf of Brazeau County.

Top-of-Bank means (1) the point closest to the boundary of the active flood plain of a stream where a break in the slope of the land occurs such that the grade beyond the break is flatter than 30% at any point for a minimum distance of 6 metres measured perpendicularly from the break; and (2) For a flood plain of a stream where the slope of the land beyond the edge is flatter than 30% at any point for a minimum distance of 6 metres measured perpendicularly from the edge.

Water Body means any location where water flows or is present, whether or not the flow or the presence of water is continuous, intermittent or occurs only during a flood, and includes but is not limited to wetlands and aquifers.

Watercourse means any natural drainage course or source of water, whether usually containing water or not, including but not limited to any lake, river, creek, spring, ravine or wetland.

Wetland means land that is saturated with water long enough to promote formation of water altered soils, growth of water tolerant vegetation and various kinds of biological activity that are adapted to wet environments. The wetland boundary is delineated by the absence of wetland soil and vegetation indicators. Wetlands are classified as peatlands (bogs, fens and swamps) and non-peatlands (shallow open water ponds and marshes).

Valley means a low area of land between hills or mountains, typically with a river, stream or creek flowing through it.

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