

Policy C542 and the *Municipal Government Act*

Current *Municipal Government Act*

Section 664 of the *Municipal Government Act* (“the Act”) empowers municipalities to acquire Environmental Reserve lands at the time of subdivision without compensation to the land owner. The Act defines these lands as:

- a swamp, gully, ravine, coulee or natural drainage course;
- land that is subject to flooding or is, in the opinion of the subdivision authority, unstable; or
- a strip of land, not less than six metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
 - preventing pollution, or
 - providing public access to and beside the bed and shore.

Policy C542 provides the City’s interpretation of Section 664 of the Act by providing guidelines by which to establish the Urban Development Line and designate lands falling below this line as Environmental Reserve. In the absence of clear legal definitions of terms such as ‘ravine’ within the Act, the Policy outlines a number of concepts and terms related to the establishment of Environmental Reserve. In addition, the policy guides the establishment of a development setback for the purposes of public access and protecting people and property from geotechnical hazards such as slope instabilities.

Because the policy reflects the City’s interpretation of Environmental Reserve as per the Act, a number of challenges are created in the implementation of the policy. In particular:

- differing interpretations of Section 664 of the Act reduce the efficiency and effectiveness of land use planning and the land development process;
- the Policy does not offer clear criteria by which to achieve outcomes and meet planning needs that are not explicitly addressed in the Act;
- the Policy is subject to changes in definitions and direction provided in the Act, reducing the City’s ability to guide land use planning within its own boundaries, achieve municipal policy outcomes, and ensure environmental protection; and,
- a full administrative and legal review of municipal policies and procedures must be undertaken whenever relevant sections of the Act are amended or repealed.

In addition to these challenges, the current policy does not provide adequate direction regarding development setbacks or appropriate land use adjacent to portions of the river valley and ravine system where the geomorphic ravine crest is not easily discernible, such as in the upper reaches of tributary streams. Clear, consistent, and technically-based criteria for establishing setbacks associated

with other objectives of the policy, such as protection of urban development from wildfire hazards or protection of the river valley and ravine system from pollution, have not been established. As a result, attempts to meet these policy objectives have not always been successful or have resulted in delays in the land development process.

Modernized *Municipal Government Act*

On May 31, 2016, the provincial government introduced into the Legislature amendments to the *Municipal Government Act*. Proposed amendments encompass Section 664, which outlines conditions for the designation of lands as Environmental Reserve, and introduce Conservation Reserve as a new land designation within the Act. The proposed amendments are currently under review, and, following re-introduction into the legislature in fall 2016, are expected to be enacted before fall 2017.

The modernized *Municipal Government Act* would empower municipalities to acquire land consisting of a swamp, gully, ravine, coulee, or natural drainage course, or lands abutting such features, as Environmental Reserve for the purposes of:

- preserving the natural features of the land;
- preventing pollution of the land or of the adjacent water body;
- ensuring public access to the land and the adjacent water body; or,
- preventing development where there is a significant risk of personal injury or property damage occurring during development or use of the land.

In addition, the modernized Act would allow municipalities to purchase lands as Conservation Reserve, at a rate equal to the market value of the land at the time of subdivision, for the purposes of protection and conservation. Lands that can be acquired in this way include those that contain environmentally significant features but that cannot be acquired as Environmental Reserve. Together, these amendments provide municipalities with broadened criteria and tools by which to secure lands abutting water bodies.