

Introduction

Dedicated lands are for parks, open space and other public amenities. There are four types: buffer strips, environmental reserves, municipal reserves, and walkways. Any person subdividing land must provide, without compensation, dedicated lands to the municipality in which the land is located.

The provision, ownership, use and sale of dedicated lands are governed by *The Planning and Development Act, 2007* (Act), and *The Dedicated Land Regulations* which must be consulted for details.

Provision and Ownership

During the review of a subdivision proposal, the type and location of dedicated lands are determined by the Director of Community Planning and the municipality in which the land is located, or just the municipality if the municipal council is a subdivision approving authority. Dedicated lands transfer to municipal ownership when ownership titles are raised to parcels on a new subdivision plan.

The Province owned all dedicated land until January 1, 1991 when *The Planning and Development Act, 1983* (s. 196) was amended to transfer existing dedicated lands to municipalities. The amendment eliminated the need to reissue the titles. The province kept ownership of some dedicated lands in which a provincial interest existed by registering a Ministerial Order on the title. Dedicated lands still owned by the Province are called **Public Reserves**.

Permitted Uses, Leases and Easements

All dedicated lands except walkways, may be leased to any person, or incorporated organization, for the permitted uses. The permitted uses for each type are detailed below. Lessees can be responsible for maintenance, liability and other items negotiated with the municipal council subject to compliance with the Act and Regulations.

Power, gas, telephone, water, and sewer facilities may be located on any dedicated land if the land can still be used for its original purpose. Easement agreements may be registered on the title.

Sale or Exchange

A council may propose selling dedicated land that is no longer needed. Municipal reserve may be exchanged for other land of equal or greater value. A sale or exchange involves passing a bylaw and obtaining ministerial approval. Before it may adopt a bylaw, a council must advertise and hold a public hearing. The approved bylaw and related documents must be registered in the Land Registry to complete a sale or exchange.

Dedicated Lands Account

A municipality must post all financial dealings related to dedicated lands to a Dedicated Lands Account in the municipal ledger. The account must record all proceeds from sales or leases, and all payments made in lieu of municipal reserve dedication. A council may authorize expenditures from the account only to developing, buying or maintaining dedicated lands. The land may be in another municipality.

Legal Designations

Dedicated lands have special designations on survey plans and titles. Each type should be consecutively numbered on each plan and adjoining plans (e.g. Buffer Strip MB1, Buffer Strip MB2, Buffer Strip MB3, and so on).

Buffer Strips

These parcels are used for separating different land uses such as residential and commercial areas, or residential lots and major roadways. New buffer strips are identified in subdivision plans as Buffer Strip MB#.

Buffer strips may be landscaped as a council requires, or leased for horticultural or agricultural purposes.

Environmental Reserves

These parcels may contain:

- ravines, coulees, swamps, water courses;
- land that is flood prone or unstable; or
- land needed to preventing pollution, preserve banks, or protect against floods.

Before 1983, such land was surveyed as public reserve. New plans must show environmental reserves as Environmental Reserve ER#.

An environmental reserve may be left in its natural state or developed as a public park having regard to why the land is environmental reserve.

Municipal Reserves

Municipal reserves may be used for open space, parks, recreation facilities, public buildings, schools, natural areas, and horticultural or agricultural uses. The land may be leased for any of the permitted uses, or for buildings or facilities owned by charitable corporations. Municipalities and school divisions may negotiate agreements for the joint use and maintenance of municipal reserves.

The size and location of new municipal reserves are negotiable with a council and the Director of Community planning. New municipal reserves are identified on survey plans as Municipal Reserve MR#.

Every subdivision for residential purposes must designate 10% of its gross area as municipal reserve; for other subdivisions 5%. The gross area includes all the proposed lots, parcels, streets, and lanes, and the remainder of the land being subdivided if it cannot be further subdivided.

Exemptions from the municipal reserve requirement are made for: single agricultural lots, parcels for utilities or public use, and re-subdivisions. Sometimes, dedication may be met by a monetary settlement (cash in lieu) or deferred to a future subdivision proposal.

Cash in Lieu for Municipal Reserve

A monetary settlement requires the subdivision applicant to pay the municipality in lieu of providing land for municipal reserve. The payment must equal the market value of the required land in a **subdivided, unserviced** state.

One way the payment for residential land might be calculated.
Average residential lot price in the area\$20,000
Minus average per lot servicing costs - 5,000
Unserviced lot market value.....\$15,000
Municipal reserve requirement.....x 10%
Per new lot requirement\$1500
Multiplied by number of new lots.....x #
Amount paid to Dedicated Lands Account\$Total
Other methods may use some form of area calculation.

There is no prescribed formula so a subdivision applicant and council may negotiate the final amount. Disputed land values are resolved by an independent appraiser hired by the municipality.

A payment must be made, or put in a trust, before a subdivision is approved. All payments must be posted to the municipality’s Dedicated Lands Account and used only to develop or maintain dedicated land.

Deferral of the Municipal Reserve Requirement

The dedication of municipal reserve may be deferred if the subdivision application includes land to be further subdivided. This might be an area to be subdivided in stages, or a new parcel to be subdivided into lots later. Dedication may be deferred until new parcels are sold for a monetary settlement is made.

When dedication is deferred, the subdivision approving authority must register an interest on the title to the land from which the reserve will be provided. The interest, formerly called a caveat informs future owners of the commitment. It may be withdrawn once the municipal reserve is provided or a monetary settlement is arranged.

An interest can be registered on the title to a parcel being created, or on the title to other land to be subdivided.

Walkways

These parcels are required for pedestrian paths through long blocks, at the end of cul-de-sacs, or between crescents. New walkways are identified on survey plans as Walkway W#.

Walkways created before April 17, 1984 were surveyed like streets or roads and do not have identifiers on plans. These walkways are owned by the Ministry of Highways and Infrastructure.

Assistance

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