



# **Fundamentals of Environmental Reserves**

by

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# Overview

- What are environmental reserves (ER)?
- When and how are ER created?
- Who owns ER?
- Where are ER found?
- Why are ER important landscapes?
- What are ER easements?
- How do ER compare to “building development setbacks”?
- What are building development setbacks?
- Summary



# What are ER?

A typical environmental reserve scenario



# When and how are ER created?

- At the time of subdivision of private lands, a subdivision authority may require that the landowner provide these landscapes (usually associated with water bodies or drainage courses) (development hazards) to the municipality as dedicated environmental reserves.
- ER are creations of the Alberta Legislature incorporated into planning legislation.

# Part 17 of the *Municipal Government Act* (MGA): Section 664

## Section 664

Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision to provide part of that parcel of land as environmental reserve if it consists of:

- a) a swamp, gully, ravine, coulee or natural drainage course;
- b) land that is subject to flooding, or is in the opinion of the subdivision authority, unstable; or
- c) a strip of land, not less than 6 metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
  - (i) preventing pollution, or
  - (ii) providing public access to the bed and shore.

## Subject to Section 663?

- A subdivision authority may not require the owner of a parcel of land that is subject to a proposed subdivision to provide reserve land or money in place of reserve land if
  - a) one lot is to be created from a quarter section of land;
  - b) land is to be subdivided into lots of 16.0 hectares or more and is to be used only for agricultural purposes;
  - c) the land to be subdivided is 0.8 hectares or less; or
  - d) reserve land, environmental reserve easement or money in place of it was provided in respect of the land that is the subject of the proposed subdivision under this part or the former Act.

# Who Owns ER?

- When a subdivision is registered at land titles, ER parcels are dedicated to the municipality in which they are located.
- ER are owned by municipalities.
- ER are managed by municipalities in accordance with provisions in the MGA.
- Open access and unauthorized use of ER is a growing issue.



# Where are ER found?

## Swamps

Land consisting of a swamp, gully, ravine, coulee or natural drainage course





# Ravines and Natural Drainage Courses





# Intermittent/seasonal creeks beds?

Seasonal  
creeks  
with well  
defined  
beds and  
shores?



Land that is subject to flooding, or is in the opinion of the subdivision authority, unstable





# Land that is unstable





# Strips of land (minimum 6 metres) abutting the bed and shore of rivers, streams and creeks

- to prevent pollution and
- to provide access to the bed and shore





Under some circumstances,  
temporary wetlands can be  
dedicated as ER



# Why are ER important landscapes?

ER usually consist of riparian lands-those lands where the soils and vegetation show presence of water.

Riparian lands are important landscapes providing many ecological goods and services to people and other living things.

# ER were called “hazardous lands” or “undevelopable lands”

- Provincial planning legislation traditionally identified ER landscapes as unsuitable for municipal development because they were prone to flooding and subsidence.
- ER are to be left in their natural state, unless the municipal council decides to use ER for roads or other public utilities.



# What are Environmental Reserve Easements

Instead of requiring the dedication of all or part of the lands required to be dedicated as ER, a municipality and a private landowner can agree that all or part of those lands will be subject to an environmental reserve easement.

The lands must be left in their natural state.

An easement is registered against the land in favour of the municipality and is a condition or covenant that runs with the land.



# How do ER compare to “building development setbacks”

ER are not “riparian buffers”, although ER often include riparian lands.

ER are not “building development setbacks”, and cannot be used to control the use and development of buildings on private lands.

ER are municipally owned lands, required to be dedicated at the time of subdivision as prescribed in section 664 of the MGA.

# What are Building Development Setbacks?

- Building development setbacks can be created as land use bylaw provisions under section 640(4)(l).
- A land use bylaw may provide, either generally or with respect to any district or part of a district to:
  - (l) the development of buildings
    - (i) on land subject to flooding or subsidence or that is low lying, marshy or unstable, and
    - (ii) on land adjacent to or within a specified distance of the bed and shore of any lake, river, stream or other body of water.

# The Purpose of Building Development Setbacks

- Building development setbacks enable a municipal council to prohibit or regulate and control land use and the development of “buildings” within certain distances from specified landscapes.
- Development setbacks apply to all private lands and all municipal lands, not just private lands during subdivision.

Municipalities can create scientifically determined building development setback distances to prohibit or regulate and control buildings within specified distances of certain landscapes





# Summary

- ER are municipal lands dedicated for certain purposes, at the time of subdivision of private lands.
- ER requirements cannot be “excessive”. It is not in a municipality’s best interest to require dedications of excessive amounts of ER.
- ER are not “riparian buffers” or building development setbacks.
- Building development setbacks serve a different function than ER strips or dedications.



# Questions?

