

Municipal Government Act 2018

Summary of the New Conservation Reserve Tool

NB: This document represents the Miistakis Institute's interpretation and is offered for discussion only; it should not be considered as legal advice.

The new legislation governing municipal governments introduced in the Act) included the creation of a new type of reserve land available to municipalities. Conservation Reserve or CR is to be used by municipalities to protect environmentally significant features.

Enabling

- Conservation Reserves are added as another type of 'reserve land' which subdivision authorities can require from landowners at the time of a subdivision application.

Purposes

- CR is for land that has "environmentally significant features".
- The determination of what "environmentally significant features" means is left to the "opinion" of the subdivision authority.
- The purpose of taking CR must be to allow a municipality to "protect and conserve the land".
- Requirement that CR land "remains in its natural state".

Placement

- CR can be required by the subdivision authority at the time of a subdivision application.
- Landowners will be required to provide CR if the subdivision authority requires it.
- There are no apparent quantitative limits to the amount of land that can be taken, except a reference to it being required for "part of that parcel of land".
- Like other reserve types, the title of the CR must be free of all encumbrances.

Compensation

- Compensation must be paid to the landowner, and must be the fair market value (FMV) at the time the application was received.





- Required compensation must be paid within 30 days of the CR being registered.
- FMV disputes will be settled by the Land Compensation Board.

Relation to Other Municipal Lands

ENVIRONMENTAL RESERVES

- CR cannot be required on lands that “could” be taken as environmental reserve.

MUNICIPAL RESERVE, SCHOOL RESERVE, MUNICIPAL AND SCHOOL RESERVE (MR, SR, MSR)

- The amount of reserve land that a subdivision authority can require is based on the following calculations, into which CR is not factored:
 - The subdivision authority can't take more than 10% of the parcel or value in MR, SR and/or MSR (or cash-in-lieu).
 - If subdivision authority has already taken more than 10% in ER, ERE, or CR it can't take beyond that in MR, SR, or MSR.

ROADS AND UTILITIES

- A subdivision authority can take no more than 30% of a parcel for roads and utilities, less the land taken for ER and ERE – and now CR.

Other Considerations

- Normally a municipality must acquire, take as reserve, or commence to acquire/take as reserve any land they have designated in the land use bylaw as being for municipal buildings, schools, recreation centres, or parks within 6 months of that designation; however, CR is exempt from this rule.
- The municipality cannot sell or lease the CR land.
- A municipality may include policies respecting the provision of CE in their Municipal Development Plan



Details of the Changes to the Act

Detailed Changes (from the Municipal Government Act 2018)	Explanatory Notes (from Bill 21)	Implications
<p>88 Section 616 is amended (a) by adding the following after clause (a.1):</p> <p>(b) by adding the following after clause (a.2):</p> <p>(a.3) “conservation reserve” means the land designated as conservation reserve under Division 8;</p> <p>(c) in clause (e) by striking out “by a subdivision authority or a municipality”;</p> <p>in clause (z) by adding “, conservation reserve” after “environmental reserve”.</p>	<p>88 Section 616 presently reads in part: <i>616 In this Part,</i></p> <p><i>(e) “environmental reserve” means the land designated as environmental reserve by a subdivision authority or a municipality under Division 8;</i></p> <p><i>(l) “land use policies” means policies established by the Lieutenant Governor in Council under Division 2;</i></p> <p><i>(z) “reserve land” means environmental reserve, municipal reserve, community services reserve, school reserve or municipal and school reserve;</i></p>	<ul style="list-style-type: none"> • Adds ‘conserve reserve’ to the definitions under the Part 17 (Planning and Development)
<p>100 Section 644 is amended by adding the following after subsection (2):</p> <p>(3) Subsection (1) does not apply to land designated by the municipality as conservation reserve.</p>	<p>100 Section 644 presently reads:</p> <p><i>644(1) If land is designated under a land use bylaw for use or intended use as a municipal public building, school facility, park or recreation facility and the municipality does not own the land, the municipality must within 6 months from the date the land is designated do one of the following:</i></p> <p><i>. (a) acquire the land or require the land to be</i></p>	<ul style="list-style-type: none"> • Sec 644 requires that where the municipality designates land (in the land use bylaw) public buildings, schools, parks or rec facilities, within 6 months they must buy the land or take it as reserve, commence proceedings to do so, and change the designation • This new section says this requirement does not apply to Conservation Reserve

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	<p><i>provided as reserve land;</i></p> <ul style="list-style-type: none"> <i>. (b) commence proceedings to acquire the land or to require the land to be provided as reserve land and then acquire that land within a reasonable time;</i> <i>. (c) amend the land use bylaw to designate the land for another use or intended use.</i> <p><i>(2) Subsection (1) does not apply if the Crown in right of Canada, the Crown in right of Alberta, an irrigation district, a board of a drainage district or a local authority, within 6 months from the date the land is designated under that subsection,</i></p> <ul style="list-style-type: none"> <i>. (a) acquires that land, or</i> <i>. (b) commences proceedings to acquire that land or requires that land to be provided as reserve land and then acquires it within a reasonable time.</i> 	<p>lands.</p>
<p>111 The following is added after section 661:</p> <p>Land for conservation reserve</p>	<ul style="list-style-type: none"> 111 Land for conservation reserve. 	<ul style="list-style-type: none"> • Enables the existence of ‘Conservation Reserves’ as one type of ‘reserve land’. • Directs that the landowner <i>must</i> provide it if the subdivision authority requires it.

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<p>661.1 The owner of a parcel of land that is the subject of a proposed subdivision must provide to a municipality land for conservation reserve as required by the subdivision authority pursuant to this Division.</p>		
<p>113 The following is added after section 664:</p> <p>Agreement respecting environmental reserve</p> <p>Conservation reserve</p> <p>664.2(1) 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 to the municipality as conservation reserve if</p> <ul style="list-style-type: none"> . (a) in the opinion of the subdivision authority, the land has environmentally significant features, . (b) the land is not land that could be required to be provided as environmental reserve, . (c) the purpose of taking the conservation reserve is to enable the municipality to 	<p>113 Agreement respecting environmental reserve; conservation reserve.</p>	<ul style="list-style-type: none"> • This is the meat of the Conservation Reserve clauses • Empowers the subdivision authority to require Conservation Reserves at the time of a subdivision application • Limits the CR to “part” of the land, but no other limits beyond that. • Is for land that has “environmentally significant features”; leaves the determination of what that means to the “opinion” of the subdivision authority. • Cannot be land that “could” be required as ER • States the purpose must be to allow a municipality to “protect and conserve the land” • Compensation must be paid, and must be FMV at the time the application was received. • Required compensation must be paid within 30 days of the CR being registered • FMV disputes will be settled by the Land Compensation Board

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<p>protect and conserve the land, and</p> <p>. (d) the taking of the land as conservation reserve is consistent with the municipality’s municipal development plan.</p> <p>(2) Within 30 days after the Registrar issues a new certificate of title under section 665(2) for a conservation reserve, the municipality must pay compensation to the landowner in an amount equal to the market value of the land at the time the application for subdivision approval was received by the subdivision authority.</p> <p>(3) If the municipality and the landowner disagree on the market value of the land, the matter must be determined by the Land Compensation Board.</p>		
<p>114 Section 665 is amended</p> <p>(a) in subsection (1) by adding “, conservation reserve” after “environmental reserve”;</p> <p>(b) in subsection (2) by adding the following after clause (c):</p> <p>. (c.1) conservation reserve, which must be identified by a number suffixed by the letters “CR”,</p>	<p>114 Section 665 presently reads:</p> <p><i>665(1) A council may by bylaw require that a parcel of land or a part of a parcel of land that it owns or that it is in the process of acquiring be designated as municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot.</i></p> <p><i>(2) Subject to subsection (3), on receipt of a copy of a bylaw under this section and the applicable fees, the Registrar must do all things necessary to give effect to the order, including</i></p>	<ul style="list-style-type: none"> • Adds the Conservation Reserve abbreviation of “CR” to the list of reserve types that can be registered by the municipality on title of land. • Like other reserve types, the title of the CR must be free of all encumbrances.

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<p>(c) in subsection (3) by adding “, conservation reserve” after “environmental reserve”.</p>	<p><i>cancelling the existing certificate of title and issuing a new certificate of title for each newly created parcel of land with the designation of</i></p> <ul style="list-style-type: none"> <i>. (a) municipal reserve, which must be identified by a number suffixed by the letters “MR”,</i> <i>. (b) public utility lot, which must be identified by a number suffixed by the letters “PUL”,</i> <i>. (c) environmental reserve, which must be identified by a number suffixed by the letters “ER”,</i> <i>. (d) school reserve, which must be identified by a number suffixed by the letters “SR”,</i> <i>. (e) municipal and school reserve, which must be identified by a number suffixed by the letters “MSR”, or</i> <i>. (f) a lot, which must be identified by a number.</i> <p><i>(3) The certificate of title for a municipal reserve, school reserve, municipal and school reserve, environmental reserve or public utility lot under this section must be free of all encumbrances, as defined in the Land Titles Act.</i></p>	

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<p>115 Section 666 is amended</p> <ul style="list-style-type: none"> • (a) in subsection (2) by striking out “the land required to be provided as environmental reserve and the land made subject” and substituting “all land required to be provided as conservation reserve or environmental reserve or made subject”; • (b) in subsection (3) by striking out “the land required to be provided as environmental reserve and the land subject” and substituting “all land required to be provided as conservation reserve or environmental reserve or made subject”; • (c) by adding the following after subsection (3): • (3.1) For greater certainty, for the purposes of calculating the 10% under subsection (2) or (3), the parcel of land includes any land required to be provided under section 662. 	<p>115 Section 666 presently reads:</p> <p><i>666(1) Subject to section 663, a subdivision authority may require the owner of a parcel of land that is the subject of a proposed subdivision</i></p> <ul style="list-style-type: none"> • <i>(a) to provide part of that parcel of land as municipal reserve, school reserve or municipal and school reserve,</i> • <i>(b) to provide money in place of municipal reserve, school reserve or municipal and school reserve, or</i> • <i>(c) to provide any combination of land or money referred to in clauses (a) and (b).</i> <p><i>(2) The aggregate amount of land that may be required under subsection (1) may not exceed the percentage set out in the municipal development plan, which may not exceed 10% of the parcel of land less the land required to be provided as environmental reserve and the land made subject to an environmental reserve easement.</i></p> <p><i>(3) The total amount of money that may be required to be provided under subsection (1) may not exceed 10% of the appraised market value, determined in accordance with section 667, of the parcel of land less the land required</i></p>	<ul style="list-style-type: none"> • The original section says you can’t take more than 10% in MR, SR and/or MSR; <u>and</u> if you have already used up more than 10% in ER or ERE you can’t take beyond that in MR, SR, or MSR (then it says the same thing re: money in lieu) • The first two parts add CR to that calculation along with ER and ERE • The third part refers to the calculation in S.662 where up to 30% of a parcel can be taken for roads and utilities, less ER and ERE (and now CR); and makes sure that those takings are included in the calculations. • There is still no percentage limit on CR (or ER and ERE) in the referenced sections.

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	<p><i>to be provided as environmental reserve and the land subject to an environmental reserve easement.</i></p> <p><i>(4) When a combination of land and money is required to be provided, the sum of</i></p> <p><i>(a) the percentage of land required under subsection (2), and</i></p> <p><i>(b) the percentage of the appraised market value of the land required under subsection (3)</i></p> <p><i>may not exceed 10% or a lesser percentage set out in the municipal development plan.</i></p>	
<p>117 The following is added after section 674:</p> <p>Re: disposal of conservation reserve</p> <p>674.1(1) Subject to this section, a municipality must not sell, lease or otherwise dispose of conservation reserve and must ensure that the land remains in its natural state.</p> <p>(2) A municipality may dispose of conservation reserve if all of the features referred to in section 664.2(1)(a) are wholly or substantially</p>	<p>117 No disposal of conservation reserve.</p>	<ul style="list-style-type: none"> • Requires that the municipality must ensure the CR land “remains in its natural state” • Requires that a municipality may not dispose of a CR unless the natural features have been destroyed by an act beyond their control (i.e., fire, flood, etc.) • Such a disposal requires a public hearing • If the land is subject to an amalgamation proposal, such a disposal cannot happen until after that annexation is complete • If the land is subject to an annexation or amalgamation proposal, such a disposal cannot happen until after the annexation

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<p>destroyed by fire, flood or another event beyond the municipality's control with the result that, in the opinion of council, there is no remaining purpose in protecting or conserving the land.</p> <p>(3) Before a municipality disposes of conservation reserve under subsection (2),</p> <ul style="list-style-type: none"> . (a) a public hearing must be held in accordance with section 230 and must be advertised in accordance with section 606, and . (b) notices containing the information required under section 606 must be posted on or near the conservation reserve that is the subject of the hearing. <p>(4) Despite subsections (2) and (3),</p> <ul style="list-style-type: none"> . (a) if a municipality receives a notice under section 103 of a proposed amalgamation, the municipality must not dispose of conservation reserve lying within the municipality until after the report under section 106 is submitted to the Minister and the amalgamation proceedings, if any, are 		<p>or amalgamation proceedings are complete</p> <ul style="list-style-type: none"> • <i>(NB: Bill 21 originally simply prohibited disposal of CR lands, but the final Act added these caveats)</i>

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<p>complete, and</p> <p>. (b) if a municipality receives a notice under section 116 of a proposed annexation of land, the municipality must not dispose of conservation reserve lying within the proposed annexation area until after the report under section 118 is submitted to the Municipal Government Board and the annexation proceedings, if any, are complete.</p>		