



**THE RURAL MUNICIPALITY OF LAC DU BONNET  
POLICY & PROCEDURES**

<b>Policy Name:</b> PUBLIC RESERVE POLICY (2024) – 2 <sup>nd</sup> Amendment	<b>Policy Number:</b> PW-2023-01
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<b>Review Date:</b> As Required	<b>Revision Date:</b> June 2024

**1) BACKGROUND & LEGISLATION**

Section 138(1) of the Manitoba Planning Act outlines that Public Reserves land may only be used for a public park, public recreation area, a natural area, a planted buffer strip separating incompatible land uses or Public Works.

If land that is registered in the name of a municipality is used as a public park or public recreation area and has not been designated a Public Reserve land because of a registered plan of subdivision, it is deemed to be public reserve land for the purposes of the Manitoba Planning Act (Section 138(2)).

As per Section 135(6)(b) of the Manitoba Planning Act, as a condition in the subdivision process, the municipality may request a landowner dedicate land, without compensation, for Public Reserve purposes, not exceeding 10% of the land being subdivided but only if the land is being divided into parcels of less than 4 hectares.

Section 139 and 140 of the Manitoba Planning Act outlines the process for Closing Public Reserves and the money in place of reserve land.

**2) PURPOSE**

The purpose of this policy is to educate ratepayers and the public on Public Reserve lands; as the use of Public Reserve land is often misunderstood. This policy will also serve as a guide for municipal employees when receiving requests and questions related to public reserves and provides direction

for the ongoing management of Public Reserve land, the removal of existing encroachments on Public Reserves, the potential disposal of existing Public Reserve lands and the acquisition of Public Reserve lands in new subdivisions.

### **3) POLICY STATEMENT**

The Rural Municipality of Lac du Bonnet recognizes there is a need to carefully manage the municipality's Public Reserves to provide benefits for existing and future residents of the municipality, the public, and to protect the natural environment. The Municipality is responsible to ensure that the Public Reserves remain safe and available for public enjoyment.

### **4) APPLICATION**

This policy applies to all designated RM of Lac du Bonnet Public Reserve land in the Rural Municipality of Lac du Bonnet. This policy does not apply to Crown Land and Manitoba Hydro Storage Land fronting Municipal Public Reserves. Crown Lands and Manitoba Hydro have their own guidelines for the management of their land.

### **5) PUBLIC RESERVES – MUNICIPALITY'S INTENT**

The management of Public Reserve land is intended to provide a suitable land base for the use and enjoyment of municipal residents and the public either as a public park, public recreation area or a natural area.

Public Reserves may also provide important access links to other lands, including water access. Public Reserves can also be used for public works such as establishing and maintaining drainage systems. Public Reserves can also offer undeveloped green spaces that act as buffers between different land uses.

### **6) GENERAL USE AND MANAGEMENT OF PUBLIC RESERVES**

#### **6.1 PUBLIC RECREATION FACILITIES**

The RM of Lac du Bonnet may choose to provide public recreation facilities on Public Reserve lands where there is sufficient interest and demand, as determined by the municipality. Public recreation facilities the municipality may consider include, but are not limited to, the following: sports fields, boat launches, play structures, picnic sites, swimming beaches, skating rinks, community fire pits, trails, pathways, and associated facilities such as parking lots or washrooms.

Public recreation facilities will be approved by council resolution while taking into consideration the following factors:

- a) Any facility must not interfere with public works infrastructure including but not limited to drainage, buffer zones and weed control.
- b) Any facility must follow the RM of Lac du Bonnet Zoning By-Law.
- c) The municipality will review the availability of municipal resources required to create and maintain the public facility.
- d) The municipality will review the environmental effects that may be caused by the development of the facility.
- e) The municipality will conduct a review and determine if the facility may cause any public safety issues.
- f) The municipality will consider the overall benefit and enjoyment use of the facility will bring to the general public.
- g) The municipality will consult with the public through a series of public engagement initiatives including the public at large and residents within 100 meters of the proposed site. This can be achieved through Public Notice advertised through the local paper, RM website and social media, private invitation to stakeholders and community surveys.
- h) The municipality will consider any objections received opposing the development of any proposed facilities.

6.2 Commercial facilities and services will generally not be permitted on Public Reserve lands. Exceptions may be considered under unique situations where there is support from local residents and at the sole discretion of the municipality. Local residents will be considered residents of the relevant subdivision or surrounding area as determined by the municipality. Commercial facilities and services will be approved by council resolution while taking into consideration the factors outlined in Section 6.1 (a-h)

6.3 Activities that are unsafe and disruptive to the public or adjoining properties, such as archery, camping or overnight use of Public Reserves lands are not permitted

6.4 Large private special events such as weddings, family reunions, and community events may be permitted by Council Resolution. **Definition of "large" being greater than 30 guests.** Noise by-law exceptions may also be required.

#### 6.5 PUBLIC RESERVE – NATURAL AREAS

In Public Reserve locations that are in their natural state for purposes of green space, the removal of vegetation will not be permitted. However, vegetation removal may be considered where there is a public safety hazard as determined by the municipality. Mowing will only occur to control weeds and to reduce fire hazards. Removal of vegetation and mowing will be undertaken by the municipality or as approved by the municipality. Placement of fill material and other yard wastes (e.g. grass clippings, tree pruning) or the removal of any material will not be allowed.

## 7) DEVELOPMENT OF PATHWAYS ON PUBLIC RESERVES (Cottage Associations Only)

7.1 In certain situations, the municipality will approve the development of a trail or pathway through Public Reserve. Written approval by resolution from the municipality must be obtained and will be based on the following requirements:

### 7.2 General Guidelines (Pathways)

- a) Only Cottage Associations, registered through MACO may submit a request for a pathway on the Public Reserve, and must meet the following requirements:
  - The Cottage Association must consist of a minimum of ten cottage owners each of whom own a separate property within the subdivision boundaries of the Public Reserve.
  - The Cottage Association must provide names and civic addresses of the Cottage Association members to the Municipality. Names will be kept confidential.
- b) Upon approval, the Cottage Association must provide a Certificate of Insurance listing the RM of Lac du Bonnet as an additional insured with a minimum \$2,000,000 per occurrence.
- c) The development, clearing and maintenance of the pathway is the responsibility of the Cottage Association.
- d) All approved pathways must meet the Municipal Standards for Design and Construction of Public Works Infrastructure.
- e) Maintenance of the approved pathway will be the responsibility of the Cottage Association and will be outlined in a signed land use agreement.
- f) All costs incurred in the development and regular maintenance of the trail will be those of the Cottage Association.
- g) The Cottage Association will acknowledge that they hold no exclusive rights to the trail and that any person of the public shall not be denied access, physically or verbally, to utilize the trail.
- h) The protection of the natural environment is of the upmost importance to the municipality.

### 7.3 Procedure for Municipal Approval (Pathways)

#### 7.3.1 APPLICATION

- a) The Cottage Association must complete an application (Schedule "A") and submit it to the CAO for initial review and register as a Delegation to present to Council.
- b) The CAO, or designate, will advise the Cottage Association of the date of the Delegation/Public Hearing and must allow sufficient time for 14 days public notice of the Delegation/Public Hearing.

#### 7.3.2 DELEGATION/ PUBLIC HEARING

- a) Public Notice of the proposed pathway will be shared with the community via RM website, social media, and through the public agenda.



- b) Additionally, Public Notice will also be served to properties located within 100 meters of the public reserve no later than 14 days prior to the public hearing. Letters will be sent by regular mail and/or by email, if available.
- c) Council will hear all representation of those in favor or in objection to the proposed pathway at the Public Hearing. Persons wishing to speak at the public hearing must register in advance with the CAO.
- d) Written representations will also be accepted by mailed letter or email addressed to the CAO.
- e) Any written objection will be provided to Council for review at the Public Hearing. The objections will be acknowledged but may not necessarily be read to the public. All objections received become a public document, however, all personal information will be redacted (such as name, address, contact information).

### 7.3.3 AFTER THE PUBLIC HEARING

- a) The Public Works Department will review the proposed pathway and report to Council any concerns or perceived issues with any public works including, but not limited to drainage systems. Council is encouraged to visit the site for a complete understanding of the proposed pathway.
- b) Final Approval will be by way of resolution of Council based on the administrative recommendation from public works and administration. When rendering the council decision, consideration will be given to, but not limited to the following factors:
  - (1) The proposed pathway must not interfere with public works infrastructure including but not limited to drainage, buffer zones and weed control.
  - (2) The municipality will review the environmental effects that may be reasonably attributed to the development of the pathway.
  - (3) The municipality will conduct a review and determine if the pathway may cause any public safety issues.
  - (4) Consideration of the demonstrated need for the pathway by the Cottage Association.
  - (5) The municipality will consider any objections received opposing the development of the pathway.

### 7.3.4 PROCEDURE AFTER COUNCIL DECISION (Pathways)

- a) The RM will issue a letter to the Cottage Association notifying them of the council decision.
- b) Upon approval, a land use agreement will be signed between the RM and the Cottage Association which will include, but is not limited to the following items:
  - Land use agreement for any trails that cross through Public Reserve
  - Insurance requirements (section 7.2 (b))
  - Acknowledgment that the trail is available for the public to use
  - Maintenance requirements as determined by Public Works

- c) Once the agreement is signed, the Public Works Department will mark the tree(s) and notify the Cottage Association that they (the Cottage Association) can start clearing and developing the pathway.
- d) The Cottage Association will notify the Public Works Department when the trail is complete for final inspection. If the Public Works Department notes any deficiencies, the Cottage Association will be required to make corrections immediately.

## **8) DEVELOPMENT ON LANDS FRONTING PUBLIC RESERVES**

- 8.1 Development applications from Cottage Associations and/or property owners for private docks, decks and boat launches on any Manitoba Hydro Land or Crown Land fronting Rural Municipality of Lac du Bonnet Public Reserves shall not be accepted or granted.
- 8.2 For further clarity, Section 8.1 does not apply to the Rural Municipality of Lac du Bonnet.
- 8.3 Prior to the adoption of this policy (amendment May 23, 2023), any existing development permits for docks, decks and boat launches on Manitoba Hydro Land or Crown Land fronting Rural Municipality of Lac du Bonnet Public Reserves will be grandfathered and permitted to exist and remain as such, unless the development permit is otherwise revoked by Manitoba Hydro Shore Lands or Crown Lands.

## **9) TREE(S) AND BRANCH REMOVAL FROM PUBLIC RESERVES**

- 9.1 Removal of any standing tree(s) or branches on the Public Reserve that are dangerous or a nuisance to the public or to private adjoining properties will be the responsibility of the municipality.
- 9.2 In certain situations, property owners may request permission to remove deadfall, branches and/or standing tree(s) that are a danger or a nuisance to their private adjoining property.
- 9.3 General Guidelines
  - a) No standing trees, branches or deadfall are to be removed from Public Reserve land without written approval from the municipality.
  - b) Any tampering with standing tree(s) is not permitted. Tampering includes, but is not limited to scoring, notching, salting and burning. If tampering or unauthorized removal occurs, it will be considered an offence and violation of municipal by-laws and will result in enforcement. The municipality may require the responsible persons to re-vegetate the area within one growing season at their own expense.
- 9.4 Procedure for Municipal Approval of Tree and Branch Removal
  - a) Property Owners must complete an application form (Schedule "B") and submit it to the CAO for initial review.

b) The CAO and Public Works Department will consider the following factors when determining approval:

- (1) The municipality will review the availability of municipal resources required to perform the work.
  - (2) The municipality will assess the potential risk and danger involved in the removal of the tree(s) or branches and determine whether the work should be performed by an arborist, or other professional.
  - (3) The municipality will review the safety measures planned by the applicant to perform the work.
  - (4) The municipality will assess the degree of danger or nuisance the tree(s), branches or deadfall are causing on the public reserve and/or to the adjoining private property.
  - (5) The municipality will review the environmental effects that may be caused by the removal of the tree(s) or branches.
- c) The municipality will provide written approval including a waiver of liability agreement between the ratepayer and the RM/CAO.
- d) Once the waiver of liability agreement is signed, the Public Works Department will mark the tree(s) and notify the property owner that the work may begin.

## **10) Encroachments and Unauthorized Structures on Public Reserves**

### 10.1 Encroachments and Unauthorized Structures on Public Reserves

Private structures and private facilities are occasionally found to be located on Public Reserve lands.

#### Definitions:

"Private Structures" being houses, garages, shops, sheds, barns, driveways, material storage

"Private Facilities" being decks, fire pits, storage sheds, fences, gardens

This part of the policy deals primarily with encroachments and unauthorized structures that existed on a Public Reserve **before the adoption of this policy**. Developments that occur after adoption of this policy will be expected to adhere to this policy, thereby avoiding new encroachments and unauthorized structures on Public Reserve lands.

- 10.2 The owner of an unauthorized structure on a Public Reserve will be issued a notice of violation and will be asked to remove the structure. If the owner does not comply by the date on the Order, the municipality may take the necessary enforcement actions and charge the owner for its costs. The owner will have the opportunity to Appeal the order as outlined in the Enforcement By-Law.
- 10.3 Following the Appeal, the municipality may consider allowing an encroachment to remain on the Public Reserve if there are extremely unusual or extenuating circumstances. Council will conduct a thorough review of the special circumstances, consider all documentation provided and decide by Council resolution.

Council may also consider the following factors:

- a) If removal of a private structure will result in an unacceptable level of environmental effects (as determined by the municipality), the municipality may enter into an agreement that allows the structure to remain on Public Reserve lands.
- 10.4 If the municipality considers it appropriate to allow an encroachment to remain, the owner shall enter into a written agreement with the municipality.

Conditions of the agreement would include:

- a) Legal descriptions of all lands, the permitted use of the building or structure, and insurance requirements.
  - b) The agreement will specify that minor maintenance may be undertaken, but the building or structure cannot be improved, expanded, or replaced.
  - c) When the building or structure reaches the end of its useful life, the owner will be required to demolish the building or structure by obtaining a Demolition permit through the Planning Department.
  - d) The municipality may allow the transfer of the agreement to another party.
- 10.5 All other private facilities like lawns, decks, fire pits and storage sheds will be removed from the Public Reserve lands. The property owner will be issued a notice of violation and will be asked to remove the private facilities. If the owner does not comply by the date on the Order, the municipality will take the necessary enforcement actions. The owner will have the opportunity to Appeal the order as outlined in the Enforcement By-Law.

## **11) LANDLOCKED PUBLIC RESERVES**

The municipality may encounter unique situations where historical subdivisions allowed for Public Reserve land dedications that do not serve a functional use to the municipality and/or create a developmental restraint on new and/or current property owners. A policy outlining steps on how to manage these unique situations is required and are outlined as follows:

### **11.1 Procedure for Municipal Approval (Landlocked Public Reserves)**

- a) The property owners may appeal to Council as a Delegation outlining the request.
- b) The municipality will review and determine if the Public Reserve:
  - i) Affects other adjacent properties
  - ii) Serves a functional use to the municipality
  - ii) Was a historical subdivision land dedication that serves no purpose.
- c) Once a thorough review is conducted, the municipality may by Council resolution provide the following option to the property owner:
  - i) Closing the Public Reserve and transferring the land to the property owner(s) or dividing the land amongst adjoining affected properties. (Section 13 & 14) Costs



incurred from legal, land surveys, land transfers will be the responsibility of the property owners.

- ii) Due to the lengthy process involved in carrying out Section 11.1 (c)(i) the municipality will allow the property owner(s) to obtain a temporary permit – following the land survey - and enter into a written agreement allowing the temporary encroachment onto a Public Reserve.
- d) Conditions of the agreement would include:
- i) Agreement to proceed with the closing of the Public Reserve process
  - ii) The permitted use of the building or structure
  - iii) The municipality may allow the transfer of the agreement to another party.

## **12) DEDICATION OF PUBLIC RESERVES IN NEW SUBDIVISIONS**

12.1 As new subdivisions are proposed, the municipality has the opportunity to either:

- a) Acquire new public reserve lands
- b) Money in lieu of land dedication or
- c) Combination of land and money.

12.2 The municipality continues to encounter many historical subdivisions with land dedications that serve no purpose due to size and location resulting in development restraints for homeowners. The following policy will guide Council in determining Public Reserve requirements for new subdivisions:

- a) Council will thoroughly review each proposed subdivision plan individually and all recommendations from the Regional Planning office.
- b) Upon review, Council will take note of any proposed land dedications and determine if such land dedications serve any purpose, such as required buffers and drainage systems.
- c) In cases where land dedication serves no required purpose, Council will not accept new reserve lands but rather accept money in lieu of land dedication.

## **13) CLOSING PUBLIC RESERVES**

The Manitoba Planning Act provides that subject to section 138 (2) of the Manitoba Planning Act, a municipality may close a Public Reserve by passing a by-law to close the Public Reserve land. The municipality will also be required to follow the legislative requirements such as obtaining written approval of the by-law from the minister, register the approved by-law, and if required by a district registrar, register the plan in the appropriate land titles office.

Before giving second reading of the by-law to close a Public Reserve land, Council must hold a public hearing to hear representations from the public and provide the required notices as set out in the Manitoba Planning Act.

## 14) DISPOSAL OF PUBLIC RESERVES

The Manitoba Planning Act allows the municipality to prepare a by-law to sell or lease Public Reserve lands. The Act requires that Council give notice of its intent to sell or lease Public Reserve lands and hold a public hearing.

### 14.1 PROCEDURES FOR DISPOSING OF RESERVES

The municipality may consider the disposal of public reserves based on the following procedures:

- a) The municipality will not normally dispose of reserve lands. Disposal will only be considered in exceptional circumstances where the municipality has carefully considered existing and future use of the property, and as outlined in Section 10.
- b) The municipality may consider subdividing surplus reserves for a use that conforms with the use of surrounding lands, as outlined in Section 10.
- c) Money raised from the sale or lease of the surplus reserve lands will be placed in a municipal reserve trust fund as required in the Manitoba Planning Act. Proceeds may be used to support recreation development for existing reserves or for the acquisition of lands for new parks or open spaces.

## 15) PUBLIC RESERVE – PUBLIC USE GUIDELINES

Municipal By-laws exist that further define what is permitted and prohibited on Public Reserve lands.

### 15.1 PERMITTED USES

To help guide the public on appropriate uses of Public Reserves, the following are some examples on what is allowed on public reserves:

- Walking, running, biking, hiking and other non-motorized activities on maintained public reserve.
- Hiking and natural pathways created by foot on natural undisturbed public reserves.
- Removal of deadfall, branches and/or standing trees deemed to be a danger or nuisance to private property and public use – upon approval by the municipality.
- Picnics and safe games (i.e.: frisbee, bocce ball), etc.
- Walking through the public reserve to access Crown Land/ Hydro Shore Land.
- Lawn mowing on a public reserve that connects to a private property, if desired, by the property owner.

### 15.2 PROHIBITED USES

The following actions are **not** allowed on public reserves and may result in fines being issued as per municipal by-laws:

- Causing damage to public reserve land, for example, by Off-Road Vehicle use.
- Parking or storing any vehicles, equipment, vehicles, etc. on public reserve.
- Seeding and growing plants, flowers and trees on public reserve.

- Depositing and leaving any substance behind such as garbage, leaves, hay, debris, etc.
- Building or erecting any structures such as sheds, play structures, decks, etc., unless approved by Council.
- Burning grass, weeds, rubbish, etc.
- Removing any dirt from public reserve land, unless approved by the municipality.
- Cutting or clearing trees or bush, unless approved by Council.
- Unsafe activities to the general public or adjoining property, such as hunting, archery, baseballs, golf balls.

One of the frequent complaints received is personal claims of ownership of public reserves. While many property owners may choose to maintain a portion of the public reserve that connects to their property (grass cutting), the public reserve remains the property of the municipality and preventing any member of the public from using this land is prohibited.

- As a member of the public, if you are using a public reserve, please be respectful and considerate to the private property that is located next to a public reserve. Do not enter or pass onto any privately owned property.

The Municipality encourages everyone to be respectful and friendly neighbors. The municipalities' role is to monitor the use of public reserves, but the RM is not responsible for managing private disputes between neighbors.

**16) POLICY IMPLEMENTATION**

16.1 The municipality may develop an ongoing public information campaign on the purpose of public reserve lands and the appropriate use and management of public reserves.



Signature  
Reeve



Signature  
Chief Administrative Officer