

- (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.

1995 c24 s95; 1996 c30 s62

Environmental reserve

664(1) Subject to section 663 and subsection (2), 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 body of water.

(1.1) A subdivision authority may require land to be provided as environmental reserve only for one or more of the following purposes:

- (a) to preserve the natural features of land referred to in subsection (1)(a), (b) or (c) where, in the opinion of the subdivision authority, those features should be preserved;
- (b) to prevent pollution of the land or of the bed and shore of an adjacent body of water;
- (c) to ensure public access to and beside the bed and shore of a body of water lying on or adjacent to the land;
- (d) to prevent development of the land where, in the opinion of the subdivision authority, the natural features of the land would present a significant risk of personal injury or property damage occurring during development or use of the land.

(1.2) For the purposes of subsection (1.1)(b) and (c), “bed and shore” means the natural bed and shore as determined under the *Surveys Act*.

(2) If the owner of a parcel of land that is the subject of a proposed subdivision and the municipality agree that any or all of the land that is to be taken as environmental reserve is instead to be the subject of an environmental reserve easement for the protection and enhancement of the environment, an easement may be registered against the land in favour of the municipality at a land titles office.

(3) The environmental reserve easement

- (a) must identify which part of the parcel of land the easement applies to,
- (b) must require that land that is subject to the easement remain in a natural state as if it were owned by the municipality, whether or not the municipality has an interest in land that would be benefitted by the easement,
- (c) runs with the land on any disposition of the land,
- (d) constitutes an interest in land in the municipality, and
- (e) may be enforced by the municipality.

(4) An environmental reserve easement does not lapse by reason only of

- (a) non-enforcement of it,
- (b) the use of the land that is the subject of the easement for a purpose that is inconsistent with the purposes of the easement, or
- (c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the easement.

(5) When an easement is presented for registration under subsection (2), the Registrar must endorse a memorandum of the environmental reserve easement on any certificate of title relating to the land.**(6)** Despite section 48(4) of the *Land Titles Act*, an easement registered under subsection (2) may be removed only pursuant to section 658(3.1).**(7)** An environmental reserve easement is deemed to be a condition or covenant for the purposes of section 48(4) and (6) of the *Land Titles Act*.**(8)** Subject to subsection (7), this section applies despite section 48 of the *Land Titles Act*.**(9)** A caveat registered under this section prior to April 30, 1998 is deemed to be an environmental reserve easement registered under this section.

RSA 2000 cM-26 s664;2016 c24 s115

Agreement respecting environmental reserve

664.1(1) In this section, “subdivision approval application” means an application under section 653 for approval to subdivide a parcel of land referred to in subsection (2).

(2) A municipality and an owner of a parcel of land may, before a subdivision approval application is made or after it is made but before it is decided, enter into a written agreement

- (a) providing that the owner will not be required to provide any part of the parcel of land to the municipality as environmental reserve as a condition of subdivision approval, or
- (b) providing that the owner will be required to provide part of the parcel of land to the municipality as environmental reserve as a condition of subdivision approval, and specifying the boundaries of that part.

(3) Where the agreement provides that the owner will not be required to provide any part of the parcel of land to the municipality as environmental reserve, the subdivision authority must not require the owner to provide any part of the parcel as environmental reserve as a condition of approving a subdivision approval application.

(4) Where the agreement specifies the boundaries of the part of the parcel of land that the owner will be required to provide to the municipality as environmental reserve, the subdivision authority must not require the owner to provide any other part of the parcel as environmental reserve as a condition of approving a subdivision approval application.

(5) Subsections (3) and (4) do not apply on a subdivision approval application where either party to the agreement demonstrates that a material change affecting the parcel of land occurred after the agreement was made.

2016 c24 s116

Conservation reserve

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

- (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,