

## Attachment 2: Amended Policy

	<b>Council Policy</b>		
	Classification <b>Planning and Development</b>		Policy No. <b>PD 4.4</b>
	Policy Title <b>Road Dedication, Upgrades and Subdivision Registration</b>		
	Approved By: Council	Effective Date: May 10, 2017	Revisions:

### Purpose

To establish the terms of requiring Road right-of-way widening/dedication, and/or Road construction/upgrading as a condition of subdivision or development permit approval; and further to establish the format of subdivision registration.

### Definitions

**“Road”** is defined as the physical, constructed public “grid roads” throughout the County, i.e. the Township Roads, Range Roads, Forced Roads or roads internal to a multi-lot subdivision, that are owned and maintained by the County of Stettler No. 6, and any structures incidental to those roads.

**“Road right-of-way”** or **“ROW”** is defined as the road plan or road allowance shown as a road on a plan of survey that has been filed or registered in a land titles office or the original survey of the County, the boundaries within which the physical road is constructed.

An **“undeveloped Road ROW”** means that the County has never maintained a road for residential purposes, and a **“developed Road ROW”** means that an existing road is being maintained for residential purposes.

The **Developer** is defined as the party initiating new road construction (e.g. the County of Stettler No. 6) or the Applicant for a subdivision or development permit application that results in the requirement for Road right-of-way widening/dedication and/or Road construction/upgrading as a condition of approval.

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### Statement

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This policy considers the immediate and long term future of Roads in the County of Stettler No. 6. Physical construction/upgrading/widening of a specific Road may not seem imminent or likely for the foreseeable future however the County has a responsibility to its current and future ratepayers to ensure that adequate infrastructure is in place to provide an appropriate level of service. Municipal mandate to require Road right-of-way widening/dedication and/or Road construction/upgrading as a condition of subdivision or development approval is provided under the Municipal Government Act, as amended from time to time.

The required Road right-of-way (ROW) width for the various types of rural road cross-sections used by the County ranges from 20m to 30m. Many existing Road ROW in the County are 20.12 meter (66 feet) wide, however, recent Road construction projects undertaken by the County have demonstrated that in typical situations a 20 meter wide ROW is insufficient. Therefore it is the County's long-term objective to widen all currently developed Road ROW and those currently undeveloped Road ROW that have been identified for future Road construction to 30 meters (98.43 feet).

In order to facilitate the acquisition/dedication of land for future physical Road widening and ensure that Roads comply with the appropriate road function, at the least possible cost to County ratepayers, it is prudent to assess the need to require Road ROW widening/dedication and/or Road construction/upgrading under the following circumstances:

- a) the Subdivision Authority approves a subdivision application; or
- b) the Development Authority approves a development permit application.

Over time, as subdivisions and development permit applications are approved along a specific Road segment on both sides of the road, the requirement of Road ROW widening/dedication and/or Road construction/upgrading for each application, will ultimately result in the acquisition of the required 30 meter Road ROW width and Road functions that are appropriate to Road conditions along the length of each Road segment. Where land for Road ROW widening has not been acquired/dedicated along the entire Road segment or on both sides of the Road segment at the time of actual Road construction or upgrading, the Developer (who could be the County) may be required to purchase the remaining land required to complete the project.

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### Legal Access vs. Physical Access vs. Landlocked Parcels

“Legal access” means that one or more legal boundary(-ies) of a parcel of land is/are abutting the legal boundary of a surveyed road plan or road ROW, which may be either:

- developed with a newer road that complies with current Road specifications for new construction; or
- may be an older road that does not comply with those specifications but is in a condition appropriate to its function; or
- may be an undeveloped Road ROW.

A “landlocked parcel” does not have any legal boundary adjacent to a surveyed road plan or road ROW.

“Physical access” means that a parcel of land has an approach onto a constructed road on a surveyed road ROW.

The following access situations may exist in the County of Stettler No. 6 and procedures to remedy them are provided in the Procedure section of this policy:

a) ***Landlocked parcels:***

The Road grid is intended to provide legal access to all quarter sections in the County, however, due to natural features such as for example a lake, some quarter sections may not have legal access. These parcels are deemed to be ‘landlocked’. Some landlocked parcels may have physical access. This means that a private road has been constructed across another property to provide physical access from the landlocked parcel to a public road. While landlocked parcels exist for historical reasons, the County does not allow new parcels that are created through the subdivision process to be landlocked. Provincial legislation requires that a subdivision application must provide access to a road to and from the proposed parcel. This may include a lawful means of access to a public road that is satisfactory to the Subdivision Authority, for example an access agreement registered as a caveat across private land to gain access to a public road. This should be an option in unique situations only and the County should be a third party to such an access agreement.

b) ***Parcels with Legal Access but not Physical Access:***

Some parcels in the County may have legal access but may not have physical access.

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Typically this is a result of the fact that a road ROW exists but a physical road has not been constructed

c) ***Public roads located on private land:***

Segments of a Road that is used as and deemed to be a public road may historically have been located on private land outside of a Road ROW due to some physical landform, and a surveyed road plan (or forced road) may not have been registered to incorporate those sections of the road into a public road right-of-way.

*'At no cost to the County'*

When this Policy states that a Developer shall upgrade a Road 'at no cost to the County' it always implies that the opportunity is available to the developer to apply for cost sharing from the County pursuant to Council Policy PW 2.13 - Road Construction Cost Sharing, at the discretion of Council. Alternatively, the Developer may elect to pay a 100% security deposit for the County to upgrade/construct the road with County forces and equipment without any guaranteed timeline to complete construction.

*Plan of Survey vs. Descriptive Plan vs. Road Acquisition Agreement*

A single parcel subdivision can be registered by descriptive plan for approximately half the cost of a plan of survey. If land is dedicated for road ROW on the same plan as a single parcel subdivision, then a descriptive plan is no longer an option and the plan must be registered as a plan of survey. The registration of a plan of survey that includes the dedication of land for public purposes (in this case road ROW widening) would require that the surveyor obtains consent to register the plan from all encumbrances on the title of the quarter section. Often these parties cannot be contacted and the surveyor would apply for a 'leave to lapse' after 60 days. If a party was contacted successfully but refuses to consent to the registration of the plan, the surveyor would have to request a judge to issue an order.

If, however, the road ROW widening is dedicated under a road plan that is registered separately from the plan of survey for the single parcel, then the above potential difficulties and associated costs would not be encountered. In this case the Subdivision Authority would sign a Certificate of Designated Officer pursuant to Section 62 of the Municipal Government Act.

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A third alternative is the use of a road acquisition agreement that is registered against the title of the lands that will provide the road dedication. A road acquisition agreement requires the landowner to give up the physical space needed for road widening at a future date when the County is upgrading/widening the existing road/ditches. This form of agreement can be used in combination with a descriptive plan or a plan of survey.

### **Procedures**

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#### **Subdivision or Development Application Review**

1. The approval of a subdivision or development application may have an impact on the functional classification of the road network adjacent to or leading up to the proposed subdivision or development site. As part of the application review, the applicant may be required to identify such impacts and road functional classification through a Traffic Impact Assessment completed by and Engineer licensed to practice engineering in Alberta, at no cost to the County. The resulting information will be used to determine whether new roads must be built or existing roads require upgrading to meet the resulting change in functional road classification and use. In this process the County will generally consider the road standard, condition and function from the farthest road where an impact from the proposed development or subdivision has been demonstrated up to the subdivision or development site (in both directions of travel). If the review of the proposed development or subdivision demonstrates requirements for upgrades to roads or intersections not included in the current new construction standards for the County, the applicant may be required to provide and pay for an appropriate design for such infrastructure completed by an Engineer licensed to practice engineering in Alberta. The review will also consider traffic safety, the appropriate location of an approach including sight lines, the need for culvert installation and other relevant criteria as deemed necessary by the Subdivision Authority or the Development Authority. As a result, one of the following options will be implemented:

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- a. ***Single Parcel Residential Subdivision or Single Parcel Residential Development Permit***
  - i. When a residential subdivision (excluding multi-lot) or a residential development permit application is being reviewed for a subdivision or development site that is **located on an undeveloped Road ROW (i.e. the road has never been constructed or has never been maintained by the County for residential purposes)**, the County will require that the applicant construct a Road, at no cost to the County, to the applicable new construction specification pursuant to Council Policy PW 2.10 - Road Specifications, and will require only the minimum work necessary to ensure that the particular segment of Road between intersections meet the appropriate road function and standards.
  - ii. When a residential subdivision (excluding multi-lot) or a residential development permit application is being reviewed for a subdivision or development site that is **located on a developed Road ROW (i.e. the existing road is being maintained by the County for residential purposes)** and it is determined that the current road condition is inconsistent with the road function that may result from approving the proposed subdivision or development and as a result, Road upgrades are required, the County will add the Road upgrades to the County road construction program, subject to Council approval within current budget allowances.

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b. ***Commercial, Industrial and Multi-lot Subdivision or Commercial, Industrial or Multi-unit Development Permit***

When a commercial, industrial or multi-lot subdivision or a commercial or industrial development permit application is being reviewed, the County will require that the applicant demonstrate, to the satisfaction of the County, all activities on the proposed subdivision or development site that may have an impact on road use for the segment of road leading to the subdivision or development site, proposed roads within the subdivision or development site and network roads that may be impacted by the proposed subdivision or development, including any findings and recommendations in a Traffic Impact Assessment pursuant to paragraph 0 above. If it is determined that the current road condition is inconsistent with the road function that may result from approving the proposed subdivision or development and as a result, Road upgrades are required, or if the proposed subdivision or development site is located on an undeveloped road allowance, the County will require that the applicant upgrade the identified Road(s) or construct a new Road(s), at no cost to the County, to the applicable new construction specification pursuant to Council Policy PW 2.10 - Road Specifications. If the proposed development or subdivision demonstrates requirements for upgrades to roads, intersections or other infrastructure not included in the current new construction standards for the County, the applicant may be required to provide an appropriate design for such infrastructure, completed by an engineer licensed to practice engineering in Alberta and subsequently construct said infrastructure at no cost to the County.

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### **When Road Right-of-Way Widening/Dedication is required as a Condition of Approval**

2. Considering that the County has determined that 30 meters is the preferred Road ROW width required to accommodate Roads, road dedication for future physical road widening is required along all currently developed Road ROW adjacent to the property that is the subject of a development permit application or subdivision application, that are less than 30 meters wide, as well as along those currently undeveloped Road ROW that have been identified for future new Road construction that are less than 30 meters wide. The registration of a road plan, road acquisition agreement acceptable to the County or road widening through a plan of survey for Road ROW widening/dedication at no cost to the County shall be a condition of subdivision approval. The option selected shall incorporate all that portion(s) of the Road ROW adjacent to the quarter section or other parcel of land that is less than 30 meters wide (see exemption below). Typically an existing Road ROW of 20.12 m (66 ft) would need to be widened to 30.0 m. The width would be shared between the parcels on each side of the Road ROW. Therefore, the registration of a 4.941 m (16.212 ft) wide road ROW would be required along the boundary where the subject parcel fronts onto the subject Road.
3. The Road ROW dedication for future physical road widening shall be required along the frontage of all currently developed Road ROW as well as those currently undeveloped Road ROW that have been identified for new Road construction adjacent to the quarter section or other parcel of land that have not previously been widened to 30 metres (98.425 ft) (see exemption below). In some instances, existing Road ROW widening was completed prior to general use of the metric system. Widths shown above are examples and actual width requirements will be determined by the County on review of the subdivision application.
4. The Road ROW dedication for future physical road widening is required even if the subject Road ROW is currently undeveloped (see exemption below).

### **Exemption from Road Right-of-Way Widening/Dedication Requirements**

5. The Director of Planning and Development in consultation with the Director of Engineering, the Director of Public Works and the Chief Administrative Officer may recommend to the Municipal Planning Commission (as the Subdivision Authority

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and the Development Authority) that in a specific subdivision or development permit application Road ROW widening/dedication of either or both a currently developed Road or a currently undeveloped Road that is less than 30 metres wide should not be required due to site specific or other reasons. The Municipal Planning Commission may accept the recommendation or deny it in order to follow the provisions in this policy instead.

### **Road Right-of-Way Widening/Dedication occurs Without Compensation**

6. Any dedication of land for Road ROW widening as a result of subdivision approval, is a dedication in favour of the County of Stettler No. 6 pursuant to the Municipal Government Act, and therefore the County shall not pay compensation to the landowner for land dedicated to accommodate Road ROW widening as a condition of subdivision approval in accordance with the provisions of the Act and this policy.

### **When a Parcel is Landlocked**

7. When a subdivision or development permit application on an existing landlocked parcel is being reviewed, the County may require, as a condition of the approval, either:
  - a. the registration of a caveat to protect a private access agreement to which the County is a third party; or
  - b. the consolidation of parcels; or
  - c. Road dedication by surveyed road plan and new road construction; or
  - d. new Road construction within an existing Road ROW; or
  - e. a combination of these measures.
8. Consolidation of quarter sections may be undertaken by the landowner by filing a 'consolidation/separation' form with the Land Titles Office. Such a document does not require approval from the Subdivision Authority.

### **When a Parcel has Legal Access but not Physical Access**

9. When a subdivision or development permit application is being reviewed, which includes a dwelling unit on a parcel that has legal access but not physical access, the County will follow the procedure set out in paragraph 0 above. Additional Road ROW

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dedication for future physical road widening pursuant to this Policy may also be required.

### **When a Public Road is Located on Private Land**

10. When a subdivision or development permit application is being reviewed for a parcel where segments of the Road are located on private land, the County may require as a condition of the approval that all those portions of the existing Road that lie outside of a Road ROW are dedicated to the County by surveyed road plan. Additional Road ROW dedication for future physical road widening pursuant to this Policy may also be required.

### **Survey Cost**

11. The preparation and registration of any plans and/or instruments needed for the creation of new parcel(s) shall be at the cost of the Developer.

### **Encroachment Agreement**

12. Where improvements are identified within a proposed Road ROW widening/dedication, an encroachment agreement may be entered into as a condition of subdivision or development approval.

## **Related Documents**

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Rural Road Study

## **Policy Authorization**

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<b>Effective Date</b>	<b>Type of Review</b>	<b>Authorization</b>	<b>Resolution Number</b>
May 10, 2017	Adoption	Council	146.05.10.17