

Town of Ponoka
County of Ponoka

**Intermunicipal Agreement on
Development in the Urban Fringe**

Adopted by resolutions of councils
22 September 1998

Preamble

The Town and County of Ponoka do not always see eye to eye on subdivision and land use. In the past, final decisions were made by the Battle River Regional Planning Commission or the Alberta Planning Board. These bodies have been abolished and the two municipalities must now work out their differences themselves. Both Councils believe that disputes can be kept to a minimum if they can agree on a pattern of future land use around Ponoka. One purpose of this agreement is to set out that pattern of land use.

Goal

The goal of this agreement is to ease the transition from agricultural to urban land uses. It will ensure that development in the County does not unreasonably interfere with the long term growth of the Town.

Legal Authority

This document is *not* an Intermunicipal Development Plan under section 631 of the Municipal Government Act. It is a limited purpose agreement, designed to allow the Town of Ponoka reasonable input into land use decisions in the area immediately outside its boundaries, where a decision by the County of Ponoka may affect the long-term interests of the Town.

It is not legally binding, but it will serve its purpose if both municipalities try in good faith to make it work.

Principles

The agreement is based on the following principles which are agreed by both municipalities:

- * The Town has a legitimate interest in development outside its boundaries if this development will affect the way the Town expands.
- * The agreement will establish patterns of land use that benefit both municipalities.
- * The agreement will protect existing public investment in roads and utilities.
- * The subdivision and development approval process will be open and public, and will be fair to all parties.
- * Development in the agreement area will proceed with full consultation between developers and the two municipalities, and will take into account the interests of third parties such as adjacent landowners.
- * Land should remain in whichever municipality is best able to provide services to it and its owners. As a general rule, farm land should be in the County, and land which requires municipal water and sewer should be in the Town.
- * The agreement is consistent with the provincial Land Use Policies (Order-in-Council 522/96).

Area Affected

The area dealt with by this agreement is shown on Map 1. Generally speaking it is an area one to two miles beyond the Town boundaries.

Constraints on Development

Map 2 shows factors which will limit the development of land in the agreement area. They include:

- * the limits of gravity sewer service;
- * height and use restrictions to protect the airport;
- * provincially mandated setbacks from sewer lagoons and landfills;
- * areas subject to flooding;

- * land underlain by gravel;
- * intensive animal operations; and
- * the locations of operating and abandoned oil and gas wells and pipelines.

Other restrictions which limit land use, but not shown on the map, are:

- * the County's policy of keeping good farm land in agricultural use;
- * buffers around oil/gas installations and the Wheat pool site;
- * access controls on Highways 2, 2A, and 53; and
- * a limited number of safe access points to the CPR rail line.

Probable Long Term Land Use

The probable long term use of land in the agreement area is shown on Map 3. This pattern of land use is based on discussions with landowners, serviceability, the projection of existing trends, the development restrictions shown on Map 2, and market demand.

The conversion of land to these uses will be supported by both municipalities. Conversion to other uses will require amendment of this agreement.

Development on Serviceable Land

As a general rule, land which can economically be serviced by gravity sewer, and which may be needed for Town expansion within 20 years, will be reserved for development at urban densities.

Other uses may be allowed on this land in the interim provided they will not obstruct its eventual conversion to urban use.

Development on Unserviceable Land

Several areas cannot economically be serviced but, because of their location and other factors, may be converted to non-farm use.

Other uses may be allowed on this land in the interim provided they will not obstruct its eventual conversion to urban use.

Area Structure Plans Required

Before any land in the agreement area is subdivided or developed, an Area Structure Plan (ASP) must be prepared, showing how the proposed development will fit in with surround land uses, and how it will be served by roads and utilities. The draft ASP will be circulated to adjacent landowners, utility companies, the school boards, and regulatory agencies in the same way as a subdivision application, and their comments and recommendations will be taken into account before the ASP is adopted by bylaw.

With the agreement of both municipalities, the requirement for an ASP may be waived for small scale subdivisions and developments such as the construction of a new farm house.

Agricultural Land Uses

The County has two basic policies on land use in farming areas. First, Council tries to reserve the best land for farming unless it is needed for urban expansion. Second, Council tries to keep non-farm uses out of farming areas so that farmers can go about their business without interference.

Building on these two policies, both Councils agree that non-farm uses around Ponoka should be concentrated on poorer soils, and along highways. Other land will be reserved for farming, and uses compatible with agriculture. However, intensive livestock operations will be limited. Specifically:

- * no *new* intensive livestock operations will be allowed within two miles of the Town boundary;
- * the County will use Alberta Agriculture's Code of Practice to determine setback distances between intensive animal operations and residential land uses; and
- * manure spreading will not be allowed on land within one mile of the Town boundary without the approval of the Town; but
- * these rules will not prevent the grazing of livestock anywhere in the agreement area, and
- * all existing agricultural uses in the agreement area are grandfathered at their size on the date this agreement is adopted.

Once established, intensive livestock operations must be protected against encroachment by incompatible land uses. Acreages will therefore be discouraged in areas with concentrations of intensive livestock operations. These operations are identified on Map 2 and are generally east and north-west of Ponoka.

Future Road System

Present County grid roads will form the future arterials of an expanded urban road system. These roads need to be widened to at least 24 and possibly 30 metres. Road widening will be taken as the opportunity arises.

The County will use its development control powers to prevent building on land required for future roads. These roads will be identified in Area Structure Plans for each quarter section, and building setbacks will be calculated from the future, widened right-of-way.

At present, some farm buildings do not require a development permit. This could lead to buildings being constructed on land needed for a future road or utility lines, so all new farm buildings in the agreement area will require development permits.

In the long term, County Council hopes to upgrade Matejka Road from SR 815 to the Highway 2A intersection. These plans may be brought forward if an elevator is built at the Alberta Wheat Pool site, but construction will have to await government funding.

Cost Sharing for Road Construction

The municipalities may share the cost of improving roads in the agreement area which benefit both Town and County. This will be negotiated on a case-by-case basis.

Other Infrastructure Requirements

The Town has plans to increase the capacity of the north-east sewage treatment plant. The County will carefully control subdivision and development in that area so that no new residences are built within 300 metres of present or future lagoons. The Town will supply the County with maps of probable expansion locations.

It may be possible to bring sewer service to land along Highway 53 west of the present municipal boundary. Options to be explored include lift stations, a force main, or new lagoons to serve the south-west. If lagoons are the preferred option, the County will protect the site through subdivision and development control.

The Town operates wells outside its boundary to feed its water system. The County will protect these wells against incompatible uses, as recommended by the Town's engineers.

Subject to regulatory and County approval, town water may be made available to medium density development outside the municipal boundary on a full cost recovery

basis. Many developments will find this economic because of the tremendous savings in fire insurance rates.

The adoption of this agreement does not require the municipalities to undertake any of these projects; this is a matter for councils at budget time (MGA s. 637).

Development Standards

Development standards -- utility requirements, road widths and surfaces, etc -- will be set by the municipality in which the land will lie in the long term. Where a parcel of land is now in the County, but may be annexed in the foreseeable future, the County will follow consult the Town on development standards.

Town and County staff will jointly recommend aesthetic standards along main highways, including landscaping, building setbacks, buffer strips, and building and yard maintenance standards. These standards will be incorporated into Area Structure Plans prior to development.

Both municipalities wish to keep the approaches to Ponoka attractive and free of visual blight. The County will use its land use bylaw to control signage along rural roads. Where the Town requests the County to take action against a violation, it will share the cost of enforcement with the County.

Alberta Transportation will be asked to enforce provincial legislation in this regard.

Annexation

Land should remain in whichever municipality is best able to provide services to it and its owners. As a general rule, farm land should be in the County, and land which requires municipal water and sewer should be in the Town.

As a general principle, the Town will not attempt to annex land until it is ready for urban development, or requires urban services.

When this pre-condition is met, the County will not object to annexation.

Cost Recovery when Land is Annexed

Where a road or bridge has recently been built at County cost, and the land is later annexed into the Town, the Town will reimburse the County for the depreciated cost of construction based on a 20 year amortization.

Referrals

The Town does not claim any input on subdivision and development proposals outside the agreement area.

The County will refer to the Town all proposed subdivisions and developments inside the agreement area. If the proposal is consistent with the agreement, the Town will offer no objection. If the proposal is not consistent with the agreement, and the two municipalities do not change the agreement, the County will refuse the application.

The Town will refer to the County all proposed subdivisions and developments on land adjacent to the municipal boundary. If the proposal is consistent with the agreement, the County will offer no objection. If the proposal is not consistent with the agreement, and the two municipalities do not change the agreement, the Town will refuse the application.

Appeals

A person whose development application is refused has the right to appeal to the Subdivision and Development Appeal Board (SDAB) appointed by the municipality. Subdivision appeals are also heard by the SDAB except where a provincial interest is at stake, in which case the appeal is held by the Municipal Government Board (MGA s.678(2)(a)).

Appeals in the agreement area will be heard by the County's SDAB. As this agreement is not a statutory document, the SDAB will not be bound by it, but County Council expects the SDAB to honour the agreement.

County Council may appoint a person nominated by Town Council to sit on the SDAB when dealing with matters in the agreement area.

Dispute Resolution

Any dispute arising from this agreement will be referred first to a committee consisting of the Mayor and Reeve and the Town and County Managers, and if they agree on a solution, this solution will be accepted by the two Councils.

If the Managers are unable to resolve the dispute, it will be addressed at a joint meeting of the Councils.

Amendment

A person wishing to have this agreement amended may start the process by writing a letter to the two councils, outlining the proposal and giving reasons in support. If the

proposed change must be advertised, a fee will be charged to cover the cost of advertising.

Either municipality may request an amendment to the agreement by writing to the other municipality, and in that case the originating municipality will pay all costs.

A request for amendment will be referred to a review committee consisting of the County Manager, Town Manager, County Development Officer, Town Development Officer, and the Manager of the West Central Planning Agency. This review committee will investigate and bring a recommendation to the two councils.

Duration

This agreement remains in force indefinitely until amended or repealed by both municipalities. It will be brought forward for review after five years.

Force Majeure

Any part of this agreement which is contrary to provincial legislation or regulations made under legislation is void, but the agreement may contravene the provincial Land Use Policies as long as those Policies are written as merely advisory.

Waivers

Any provision of this agreement may be waived on a case-by-case basis if both Councils agree and pass resolutions to that effect.

Common Sense to Govern

If this agreement says something which is clearly wrong, or uneconomic, or unfair, or has been overtaken by events, that part of the agreement may be over-ridden by a simple resolution of each council without any need for a formal amendment.

Repeal of Previous Agreement

This agreement supersedes the former Fringe Area Planning Study adopted in November 1988, and the Town and County Bylaws which adopted that Study will be repealed.

Appendix: Setbacks required by provincial legislation

(For information only, and subject to change; does not form part of the agreement)

- Sewer lagoons:** Schools, hospitals, food establishments, and residences are not allowed within 300 metres of the working area of a sewer lagoon (Sub Regs s.12). (The working area is the surface of the lagoon, not the parcel boundary.)
- Landfills:** Schools, hospitals, food establishments, and residences are not allowed within 300 metres of the operating or non-operating *disposal* area, or 450 metres of the current or future *working* area, of a landfill (Sub Regs s.13).
- Water wells for human consumption are not allowed within 500 metres of an active or closed landfill (Public Health Regs).
- Highways:** Most subdivisions within 800 metres of a rural highway require the approval of Alberta Transportation if the speed limit on that stretch of highway is 80 km/h or more (Sub Regs s.14).
- Airports:** No structures are allowed higher than a surface rising at a gradient of 1:7 from the sides of the basic strip, or 1:40 from the ends of the basic strip (Transport Canada, *Land Use in the Vicinity of Airports*, Cat TP 1247E).
- Land uses affected by the noise of aircraft are regulated by the same document.
- Land uses which may affect flight operations due to smoke, glare, electromagnetic emissions, or the attraction of birds are also regulated.
- Flood risk:** It is standard practice not to allow buildings on land which has a 1% per year probability of flooding. While municipalities may allow such buildings, it is difficult for the owners to get insurance or CMHC funding.
- Sour gas:** Application for subdivision or development within 1.5 km of a sour gas facility must be referred to the Alberta Energy and Utilities Board (AEUB), and must not be approved unless it conforms to AEUB's setback requirements (Sub Regs s.9).
- Other oil & gas:** Development must not be approved within 100 metres of an oil or gas well without the approval of the AEUB (Sub Regs s.9). The AEUB recommends that no buildings be constructed within 5 metres of abandoned wells.