

SUBJECT: Flood Plain Zoning and Enforcement

SUBMITTED BY: Environment Committee

BACKGROUND

There have been extreme flood events in recent years in Saskatchewan resulting in loss and damage to personal and commercial properties. The Saskatchewan Chamber has sincere empathy for the many people and businesses affected by the extensive flooding. The Chamber strongly recommends a proactive approach to addressing future potential flood impacts.

Impacts from flooding include physical damage to personal and public property and unfortunately to the safety and well-being of Saskatchewan residents including health impacts from moulds and mental health issues from the severe stresses associated with personal losses. These impacts come at a significant cost to the businesses, residents and governments. The costs include emergency measures undertaken by government, insurance claim costs, and government disaster aid and reconstruction costs. Additionally, they include increased or denied insurance costs, and the forfeit of destroyed capital investment.

ISSUE

The Planning and Development Act, 2007 was established with directions for communities and municipalities to ensure that appropriate planning is undertaken to protect the natural environment and to protect developments from the eventual damage that can be anticipated and predicted from flooding in certain areas.

The Chamber recommends that the provincial government and every municipality actively enforce the regulatory and legislative supports already in place to avoid development on lands that are susceptible to flood damage. Lands near water bodies are primary environmental assets and must be protected for their own sake. Controlling development in these locations will have the further benefit of reducing the cost of helping families and businesses ravaged by flood events.

As noted on the Saskatchewan Ministry of Environment's website, "Floods are one of nature's most destructive forces. Managing development to effectively minimize flood risk to life, property and infrastructure is a major objective of land use planning."

The Act requires new official community plans to contain policies to address the management of lands subject to natural hazards, including flooding, slumping and slope instability. Zoning bylaws allow municipalities to limit development on potential hazardous lands to minimize risks from flood damage and protect the environmental integrity of the flood plain. *The Statement of Provincial Interest Regulations (SPIR)* require that municipalities set aside lands within the 1:500 year flood (F500) plain, and

that developments be built to a base at least 0.5 meters above that level. SPIR requires Municipalities' planning documents and decisions to meet these requirements since 2012.

From the Act:

32(2) An official community plan *must* contain statements of policy with respect to:
(d) the management of lands that are subject to natural hazards, including flooding...

52(3) A zoning bylaw *may* contain provisions:
(h) regulating or prohibiting development:
(i) on land that is subject to flooding...

185(1) An approving authority *may* ... require the owner of land that is the subject of a proposed subdivision to provide part of that land as environmental reserve ... if the land consists of:...

- (c) land that is subject to flooding...; or
- (d) land that ... is required for the purpose of:
 - (iii) the protection of the land to be subdivided against flooding.

Two of the critical sections of the Act referenced above indicate that the provisions are optional ("may contain", or "may require"). The Chamber suggests that the Ministry consider strengthening the supporting language to make all of these provisions non-optional, consistent with SPIR. For example article 53(3) should indicate that zoning bylaws must contain the indicated provisions.

Municipalities must avoid issuing development permits on land that is flood prone. For future developments, Provincial legislation provides the much needed support to work with municipalities and land developers to ensure that land use planning supports provincial development initiatives, without establishing activity within sensitive terrain that will ultimately result in costly damage to infrastructure. However, for existing legacy developments, municipalities and the provincial government will need to correct the situation over future years.

Other suggestions to reduce the impact to provincial taxpayers include:

1. Mandatory Flood Disclosure
 - a. When properties have experienced over-land flooding as a result of the natural course of runoff or rain water within the F500 flood-plain, it should be listed on the land title that the property is within a natural flood plain.
 - b. Upon the sale of a property impacted by natural flooding, full disclosure to potential purchasers should be mandatory.
2. Limit provincial government financial assistance to single occurrences and only to properties developed in compliance with the Act.

- I. Financial assistance from the province should not be available to naturally flooded properties during subsequent flood events.

An example of why these enforcements are important is the case of Roche Percee, SK. The village was destroyed by the 2011 flood. The Provincial Disaster Assistance Program paid affected residents for their homes (to a maximum of \$249,000). Some of these individuals rebuilt their homes in the same location in 2012. During the 2013 flood, these individuals claimed under the Emergency Flood Damage Reduction Program for flood prevention structures.

Restricting developments within known flood prone areas, limiting financial assistance that encourages the presence of flood-plain developments, and mandatory disclosures on land titles will encourage future developments to move to more sustainable locations.

RECOMMENDED

- 1) That Saskatchewan municipalities be asked to confirm the restriction of development per SPIR within the F500 flood-plains, in areas such as drainage-ways, lakes, rivers and streams. This includes SPIR reflection into official community plans, district plans, and zoning and subdivision by-laws. This needs to be strongly enforced, resisting any pressures especially in drier years when such land may seem suitable for development.
- 2) That Saskatchewan municipalities be asked to confirm the requirement for F500 flood-plain delineation and flood-proofing requirements for planning documents and development proposal documents for approvals of new development within and adjacent to the F500 flood-plains, per the Provincial Planning Handbook for the SPIR.
- 3) That the Government of Saskatchewan stand fast on the SPIR restrictions against development within the F500 flood-plains in approving municipal planning documents, and require notice thereof on titles.
- 4) That no government disaster assistance funds be available to those that develop within the F500 flood-plains.
- 5) That provincial government rules require that the cost of insurance for development within the F500 flood-plains be borne wholly by those purchasing such insurance.
- 6) That the Government of Saskatchewan and Saskatchewan municipalities work together to develop a long term (perhaps 25 year) program to flood-proof and/or relocate existing developments out of the F500 flood-plains.