

Environmental Reserves

What is the Issue?

An environmental reserve on the edge of a lake is intended to protect the lake environment from adjacent human activities, and provide public access to the lake. It also protects the private landowner from natural fluctuations in the water level of the lake that may cause problems such as flooding and erosion. If this strip of land is managed with good stewardship practices, it can act as a valuable protector of the lake environment.

Environmental reserves are often considered by adjacent landowners to be an extension of their private property. These adjacent landowners have been known to clear vegetation off the reserve, build on the reserve, and/or fence the reserve in an attempt to keep the public out. Councillors may receive complaints from their constituents about landowners intentionally or unintentionally using or developing these lands. Environmental reserves belong to the municipality. Unauthorized activities on an environmental reserve may harm the aquatic ecosystem.

Background

Through Alberta's subdivision and development process, the *Municipal Government Act* 1994, Chapter M26.1, states that an applicant for subdivision may be required to dedicate, as environmental reserve, land that consists of:

- A swamp, gully, ravine, coulee or natural drainage course,
- Land that is subject to flooding, or land that is unstable, or
- A strip of land, not less than six metres in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of preventing pollution, or providing public access to and beside the bed and shore.

The Use of Environmental Reserves

The *Municipal Government Act* (MGA) states that these strips of land next to a lake are taken for two main purposes: to prevent pollution of the water body, and to provide public access to and beside the bed and shore of the lake. Environmental reserves also ensure that building does not occur on land subject to natural hazards. Individual residents cannot use environmental reserves for their own purposes, (e.g., erect structures on it, or fence it off from the public).

The MGA states that environmental reserves are to be left in their natural state or used as public parks. If the Summer Village follows this directive, it results in a functioning buffer zone between private residences and the lake.

Roads and other specified structures such as pipelines and public utilities can be constructed on environmental reserve lands subject to a public hearing, and a determination that the interest of the public will not be adversely affected.

The Misuse of Environmental Reserves

Unfortunately, environmental reserves are sometimes misused. Many documented cases reveal that adjacent landowners have compromised the purpose and nature of these reserves through the removal of trees and vegetation, the on-site development of fences, boat launches, decks and other buildings, the re-contouring of the site, and other private uses of these reserve lands. These actions deny the public nature of these properties, as stipulated in the Municipal Government Act, creating conflicts between area landowners and the general public, and can result in the degradation of the lake environment.

Designations Prior to 1978

Subdivisions surveyed after 1978 will have the environmental reserves marked “ER” on the survey map. Prior to the 1978 Planning Act, subdivision plans showed reserves as “R.” These reserves could be municipal or environmental, depending upon their use. Generally, if a parcel of land marked “R” on a survey map indicates a strip of land between a private property and the lake, this land is to be treated as environmental reserve.

What Does the Law Say?

The Summer Village owns the environmental reserve. The *Municipal Government Act* (Section 671) specifies that an environmental reserve must be left in its natural state or be used as a public park. A municipality, however, may authorize some other use by passing a bylaw under Section 676 of the MGA.

Environmental reserves cannot be sold, but they can be leased for not more than three years. This would require a bylaw. A Summer Village could also issue a **temporary** “License of Occupation” for environmental reserve lands, to permit uses such as the placing of a boathouse near to the water.

Any unauthorized activity on an environmental reserve should be considered by the municipality to be an act of property trespass, which could be addressed through appropriate legal channels.

What Should I Do?

People often wonder just what they can do to “help” the environment. Proper management of environmental reserves is one way municipalities can make a big difference to the lake environment.

Councillors can become familiar with the environmental reserves in their village and their permitted uses. They can review or update any bylaws regarding environmental reserves. If there are no bylaws and these lands are being abused, Council could consider drawing up bylaws to outline how they are to be managed. Environmental concerns must be considered when determining what activities will be allowed on the environmental reserve.

Provide information to your residents about the importance of environmental reserves and how they may be used. If a resident or member of the general public observes that an environmental reserve is being misused, they should be instructed to register a complaint.

Protecting the Environmental Reserve

Be prepared to respond if Council is made aware of an environmental reserve being used without permission, or for activities that have not been approved. Council or administration should take steps to stop unauthorized activity and enforce any bylaws, or take legal action if required. Failure to take action may expose the Summer Village to risks and liability arising from the non-legitimate use of these lands.

Enforcing the regulations governing an environmental reserve is not always easy, especially when it has never been done before. Residents with property abutting a reserve may have come to feel that this land is “theirs,” an extension of their property. It is not. Survey maps (and pins) will clearly show where the private property ends and the reserve begins. A ratepayer who encroaches is not paying taxes for the **private exclusive use** of environmental reserve land. Environmental reserves belong to the Summer Village.

Environmental Reserves and Lake Stewardship

Environmental reserves can serve a very important function when it comes to good lake stewardship. Perhaps the most important thing Council can do is to protect the vegetation on an environmental reserve. The trees and shrubs that may be on this land are not the property of private landowners and these landowners have no right to remove them. This vegetation serves a very important function. It acts as a filter keeping pollutants, including silt, from entering the lake water. It will also anchor the bank and protect private property from erosion in high water years.

An environmental reserve can also provide an area for public access to the lake. It could become a municipal park with a lakeside trail and even picnic benches. Having the entire village involved with caring for this land would contribute greatly to its protection, and thereby to good lake stewardship.

Who Can I Contact?

For information about reserve lands within a municipality contact, Alberta Municipal Affairs-Local Government Services Division at:

Phone: 427-2225

Dial 310-0000 first, for a toll-free connection.

Fax: 420-1016

E-mail: lgsmail@gov.ab.ca

web-site at: http://www.municipalaffairs.gov.ab.ca/ms_index.htm

To find out more about removing fences or other unauthorized structures on the lakebed and shore, contact the Regional Office of Alberta Sustainable Resource Development, Public Lands and Forests Division.

Are There Any Resources Available?

- Alberta Municipal Affairs at:
<http://www.municipalaffairs.gov.ab.ca>
- **Municipal Government Act** (including Sections 664, 671, 676 and 677) at:
<http://www.gov.ab.ca/qp>
- **The Legislative Framework for Municipal Planning, Subdivision and Development Control** at:
<http://www.municipalaffairs.gov.ab.ca/ms/pdf/legframework.pdf>
- For information on protecting the shoreline go to the Vincent Lake Working Model web-site at:
<http://www.healthyshorelines.com/index.asp>
- For an example of an Environmental Reserve bylaw go to the Vincent Lake Working Model web-site at:
<http://www.healthyshorelines.com/pdf/Building%20an%20Environmental%20Reserve%20By-Law%20Fact%20Sheet,%20%2021-Mar-2001.pdf>
- Section 3.4 “Natural Environment,” of the Half Moon Bay Municipal Development Plan.
- Strathcona County – Bylaw 68-2005 – Unauthorized Use of Conservation Easements for the Purposes of Protecting and Enhancing the Environment Through the Use and Enforcement of Environmental and Conservation Easements.
<http://www.strathcona.ab.ca/Strathcona/Departments/Legislative+and+Legal+Services/Bylaws/default.htm>
- The Summer Village of Norglenwold - Municipal Development Plan (Section 8)
– Environmental Protection.
- The Summer Village of Golden Days – Bylaw No.194 – Designate Lands as Environmental Reserve.
- The Summer Village of Half Moon Bay – Letter to Residents on Environmental Reserves.