

# Municipal Affairs and Housing

## Interpretation Bulletin

Number: 01/06

Date: March 2006

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### SUBJECT:

**Use of Reserve Land – Public Access  
Municipal Government Act Sections 671, 674, 675, and 676**

### Situation:

**There have been some recent situations where municipalities have been restricting access to reserve lands adjacent to lakes. Municipal Affairs is providing this information bulletin to clarify the intent of the reserve provisions of the *Municipal Government Act*.**

### Interpretation:

At the time of subdivision, a municipality may take as environmental reserve a strip of land not less than 6 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 access to the bed and shore. Environmental reserves **must** be left in their natural state, or else be used as a public park. A municipality may also take land for municipal and school reserves. Municipal and school reserve land **may only** be used for public parks, for public recreation areas, for school authority purposes, or for buffering (to separate different land uses from each other).

**Municipalities may impose reasonable restrictions on access to or use of reserves.** Reasonable restrictions are those which are required to achieve one or more of the following:

- protect the public (particularly children and people with disabilities) from hazards
- protect against environmental damage
- protect against vandalism or other damage to facilities or equipment
- limit disturbances to neighbouring residents or users of neighbouring property
- avoid disruption of scheduled events or authorized activities
- facilitate the provision of educational or recreational programs.



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Local Government Services Division Municipal Services Branch

Phone: 780-427-2225 . Fax: 780-420-1016 . E-mail: [lgsmail@gov.ab.ca](mailto:lgsmail@gov.ab.ca)

17<sup>TH</sup> FLOOR COMMERCE PLACE, 10155 – 102 STREET, EDMONTON, ALBERTA T5J 4L4. INTERNET: [www.municipalaffairs.alberta.ca](http://www.municipalaffairs.alberta.ca)

**Such restrictions can include reasonable and proportionate fees for facilities or programs. However, access or use restrictions cannot be such that use of reserve lands is effectively limited to the exclusive use of neighbouring residents, members of a particular ethnic or religious group, members of a particular club or organization, or members of a specific community.** For example, if a municipality operates a boat launch on reserve land or which is accessed through reserve land, reasonable fees could be charged to any member of the public using the boat launch. However, there would have to be a sign or other effective means of explaining to the public what the fees are and how they are to be paid. As well, the payment requirements and the conditions of use could not be designed to **obstruct or unreasonably restrict public access.**

If a municipality grants a **special right to use municipal reserve land** for more than a short period to a limited number of people as opposed to the general public, this **may well amount to a disposition** within the meaning of section 674 of the *Municipal Government Act*. If so, the municipality should follow the section 674 process to remove the reserve designation from the title. A municipality may only direct Land Titles to remove the reserve designation from the title after it has given notice, and after council has held a hearing and considered the representations made at the hearing. Only then may the municipality further restrict access or use the land, as it deems necessary.

**A municipality may not remove an environmental reserve designation.** However, a municipality may make changes to environmental reserve use or boundaries if it follows the required process. The process set out in the Act requires that the municipality give notice, that council hold a hearing and that it consider the representations made at the hearing before making a decision. The lands would retain their status as environmental reserve except for lands outside the adjusted boundary.

For further information on this bulletin, contact the Municipal Advisory Unit toll-free by dialing 310-0000, and then entering 427-2225.

\*This bulletin is describing and commenting on a generic issue. However, there may be other factors that affect how a specific situation should be dealt with. If the particular situation in your municipality is materially different from the circumstances described in this bulletin, you should consider getting legal advice regarding what you should or should not do about it.