

#3

## Frequently Asked Environmental Law Questions NEW LAKEFRONT DEVELOPMENT

---

**Q:**

**A new acreage/cottage development has been proposed for a lake close to my property. I am concerned about this and want to ensure that the development occurs in an orderly, aesthetically pleasing way, and does not have an overall negative impact on the natural values of the lake. I am also concerned that the use of recreational vehicles on the water not be allowed. What can I do to ensure these values are protected?**

**A:**

As a neighbor, you have the right to have input on the development.

Municipal Development is governed by the *Municipal Government Act*, which requires a municipality have a Land Use Bylaw that lists the permitted and discretionary uses for the various districts within the municipality. With proper notice and hearings, the Bylaw can be amended. As a neighbouring property owner you can make representation at the hearing.

Under the Land Use Bylaw, the developer will have to apply for a development permit. Public notice is required of all permits granted. This will allow you to express your concerns to the municipality. The permit will be granted automatically if the use fits within the permitted uses. There is no appeal.

If a development permit is granted as a discretionary use, you may appeal this decision to the Subdivision and Development Appeal Board of the municipality. An unhappy developer may also appeal to that Board. The developer must also apply for subdivision approval from the municipal subdivision authority. That authority must give adjacent landowners, like you if you live close enough, notice of the application and must consider your written submissions. Although you do not have the right to appeal this decision if you don't like

it, you do have the right to be heard if the developer or a government body appeals to the Subdivision and Development Appeal Board of the Municipality.

A further limited appeal lies from the decision of the Subdivision and Development Appeal Board to the Court of Appeal of Alberta on questions of law and jurisdiction. In addition some decisions of municipal authorities can be appealed by way of an application for judicial review to the Court of Queen's Bench of Alberta. You would be wise to have a lawyer act for you regarding these proceedings.

The federal government regulates boating under its authority over shipping. The Boating Restriction Regulations list the lakes where boating is forbidden or restricted. The federal government consults the provinces annually in making this list. There is authority that a municipality may, under its land use rules, validly restrict boating within its borders without federal approval.



## Acknowledgements

The Frequently Asked Environmental Law Questions series is made possible by a grant from Alberta Ecotrust and by charitable donations to the Environmental Law Centre.



The series is part of a larger project titled *Building Internet Bridges* which received support from the Community Animation Program of Health Canada and Environment Canada, Athabasca University, and the Environmental Law Centre.

We also express appreciation to the Alberta Law Foundation who has provided ongoing financial support to the Environmental Law Centre since its incorporation in 1982.



## Environmental Law Centre

The Environmental Law Centre (Alberta) Society is a non-profit charitable organization operating in Alberta since 1982. The Society believes in making the law work to protect the environment and in support of this objective, provides services in environmental law education and assistance, environmental law reform, and environmental law research. The Society operates the Environmental Law Centre which is staffed by four full-time lawyers.

Funding is provided to the Society in part by the Alberta Law Foundation and through the generous support of the public. The Centre also accepts private and government research contracts for work relevant to and consistent with the Society's objectives.

For further information, pursue the following:

### Environmental Law Centre Library Resources:

- ENVIRONMENTAL REFERENCE MANUAL FOR THE REVIEW OF SUBDIVISIONS IN ALBERTA / Standards and Guidelines Branch, Alberta Environmental Protection. --Edmonton: Alberta Environmental Protection, 1996.
- DEALING WITH MUNICIPALITIES : NEW MUNICIPAL GOVERNMENT ACT --Edmonton: Legal Education Society of Alberta, 1994.
- PLANNING & DEVELOPMENT : AMENDMENTS TO THE MUNICIPAL GOVERNMENT ACT : [PAPERS PREPARED FOR USE WITH SEMINARS IN EDMONTON AND CALGRY, NOVEMBER 10 AND 17, 1995] --Edmonton: Legal Education Society of Alberta, [1995].
- MUNICIPAL ENVIRONMENTAL ASSESSMENT : A LAND USE PLANNING TOOL? : An AACIP [Alberta Association, Canadian Institute of Planners] Discussion Paper / Alberta Association, Canadian Institute of Planners. --Edmonton: Alberta Association, Canadian Institute of Planners (AACIP) 1996.
- PLANNING LAW AND PRACTICE IN ALBERTA / Laux, Frederick A. --Toronto: Carswell, 1996.
- [WORKSHOP ON] EMERGING TRENDS IN MUNICIPAL LAW : PRESENTED BY BROWNLEE FRYETT [AT THE] EDMONTON HILTON INTERNATIONAL HOTEL [ON] JUNE 8, 1993 / Brownlee Fryett. --Edmonton: Brownlee Fryett, 1993.
- MUNICIPAL AND LAND-USE PLANNING /Kwasniak, Arlene J. --In Environmental Law and Policy / Elaine L. Hughes, Alastair R. Lucas, William A. Tilleman, eds. --Toronto : Emond-Montgomery Limited, Chapter Thirteen, pp. 487-511, c1998.

### Websites:

- [http://www.gov.ab.ca/ma/lgs/mun\\_ser/planning/plan1.htm](http://www.gov.ab.ca/ma/lgs/mun_ser/planning/plan1.htm) *The Legislative Framework for Municipal Planning, Subdivision and Development Control* by Alberta Municipal Affairs. A bulletin that discusses the legislated municipal planning framework, outlines the legislated steps in the subdivision and development control process, and notes the statutory exemptions and limitations to municipal planning authority.
- <http://www.agric.gov.ab.ca/ruraldev/publands/lakeshore.html#you> *Alberta's Lakes and their Shores - A Fragile and Valuable Resource* by Alberta Agriculture, Food and Rural Development. Guidelines for appropriate lakeshore use.
- <http://www.agric.gov.ab.ca/ruraldev/publands/publan28.html> *About Public Lands: Co-Ordinating Land Use Planning on Public Lands with Municipalities* by Alberta Agriculture, Food and Rural Development.
- <http://www.cgrser.org/obs/boatreg/html/boatreg.htm> *Summary of the Boating Restriction Regulations Process* by the Office of Boating Safety.
- <http://www.agric.gov.ab.ca/archive/ilo/section4c.html> *Regulatory Options for Livestock Operations: Municipal Land Use Bylaws and Development Decisions* by Alberta Agriculture, Food and Rural Development. In relation to livestock operations, but has good information on Municipal Development Plans and the processes involved.

## Contacts:

- Copies of the relevant legislation are available from the Queen's Printer Bookstore  
11510 Kingsway Avenue  
Edmonton, AB T5G 2Y5  
Phone: 780-427-4952  
Fax: 780-452-0668  
E-Mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
URL: <http://www.gov.ab.ca/qp>



March 1999

The information provided is current to December 31, 1998. While every effort has been made to ensure the accuracy and timeliness of the information, the answer, of necessity, is of a general nature. The Environmental Law Centre encourages individuals to seek specific advice on matters of concern and not to rely solely on the information in this publication.

©Environmental Law Centre (Alberta) Society, 1999

This information sheet can be reproduced for educational purposes without permission provided appropriate credit is given.