

BYLAW 8-2007

A BYLAW OF STRATHCONA COUNTY IN THE PROVINCE OF ALBERTA, FOR THE PURPOSES OF REGULATING UNAUTHORIZED USE OF COUNTY PROPERTY.

WHEREAS pursuant to the *Municipal Government Act*, R.S.A. 2000 c.M-26, as amended, (hereinafter referred to "the Act") a Council of a Municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

WHEREAS pursuant to the *Act*, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

WHEREAS pursuant to the *Act*, a Council may pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the matters listed therein;

WHEREAS pursuant to the *Act*, a municipality has the direction, control and management of all roads within the municipality;

WHEREAS pursuant to the *Act*, a municipality may grant rights, exclusive or otherwise, with respect to its land, including land under the direction, control and management of the municipality;

NOW THEREFORE the Council of Strathcona County pursuant to the authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

SECTION 1 - SHORT TITLE

1.1 This bylaw may be cited as the Strathcona County "Unauthorized Use of County Property Bylaw".

SECTION 2 - PURPOSE

2.1 The purpose of this bylaw is to regulate the Unauthorized Use of County Property, to promote the safe, enjoyable and reasonable use of such land and to protect and conserve natural ecosystems for the benefit of all citizens of the County.

SECTION 3 - DEFINITIONS

3.1 "Act", means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time.

3.2 "Bylaw Enforcement Officer" means a Bylaw Enforcement Officer appointed by the County pursuant to the *Municipal Government Act*, for the purpose of enforcing County bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.

3.3 "Commissioner" means the Chief Commissioner of the County or his or her delegate.

3.4 "Council" means the council of the County.

- 3.5 "County" means Strathcona County.
- 3.6 "County Property" means:
- a) any property developed or used by the County as public park (P, Park), sports field, playground, recreational area, including the Broadmoor Public Golf Course, (hereinafter referred to as "Parkland");
 - b) un-developed reserve land designated as reserve (R), municipal reserve (MR), school reserve (SR), municipal and school reserve (MSR) and environmental reserve (ER) pursuant to Strathcona County Land Use Bylaw 8-2001 as amended or replaced from time to time and the Municipal Government Act, (hereinafter referred to as "Reserve Land");
 - c) municipal rights-of-way including highways, roads, roadways, boulevards, sidewalks, walkways, road allowances, streets, lanes, road diversions, bridges, titled rights-of-way, undeveloped road rights-of-way, public space, water bodies, public utility lots, storm water management facilities, dry ponds (hereinafter referred to as "Municipal Utilities");
 - d) any property developed or designated by the County as a pathway and the Heritage Parkway Trail System, administered by Recreation, Parks and Culture, (hereinafter referred to as "Trails");
 - e) any property owned and or titled to the County, including those lands which have been developed with a building, structure or parking lot.
- 3.7 "Order" means an Order issued under this Bylaw in accordance with the Act.
- 3.8 "Person" includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the County or its legal representatives.
- 3.9 "Private Property" means land owned by a person, group, corporation or other entity, not a governmental body."
- 3.10 "Property" means any lands, buildings, structures or premises, or any personal property located thereupon, within the municipal boundaries of the County.
- 3.11 "Provincial Offences Procedures Act", means the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time.
- 3.12 "Unauthorized Use" means use of County Property, through the construction, storing, landscaping, erecting, placing or removal of anything on, in, under or over County Property, without the written approval of the County. Examples of Unauthorized Use include but are not limited to:
- a) the placement of a driveway, parking area, utilities, telecommunication facilities, walkway, patio, deck, retaining wall, fence, shed, residence, steps, fire pit, fire wood, composter, vehicles or other structures and chattels;

- b) landscaping, including the addition and/or removal, of vegetation or any use that interferes with vegetation growth;
 - c) drainage facilities such as pipes, catch basins, ditches, sumps, swales, on-site sewage disposal, detention ponds, or ancillary structures;
 - d) building materials, stockpiles, debris, refuse or other chattels;
 - e) digging, cutting, excavating or filling.
- 3.13 "Violation Tag" means a tag or similar document issued by the County pursuant to the Municipal Government Act.
- 3.14 "Violation Ticket" means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*, and any Regulations thereunder.

SECTION 4 – PROHIBITION

- 4.1 No Person shall create or allow an Unauthorized Use of County Property or any other Property under the direction, control or management of the County.

SECTION 5 - ENFORCEMENT

- 5.1 A Bylaw Enforcement Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter in or upon any Property, in accordance with Section 542, of the *Municipal Government Act*, to carry out an inspection enforcement or other action required or authorized by this Bylaw, *the Municipal Government Act*, or other statute.
- 5.2 When exercising his authority to enter onto Private Property for inspection or enforcement under Section 5.1, a Bylaw Enforcement Officer shall provide the Owner or Occupant of the Private Property with reasonable notice as required by the *Municipal Government Act*.
- 5.3 Any Person who contravenes this Bylaw may be issued an Order by a Bylaw Enforcement Officer to remedy the contravention in any manner deemed necessary in the circumstances pursuant to Section 545 of the *Municipal Government Act*.
- 5.4 The Order issued by the Bylaw Enforcement Officer under Section 5.3 may:
- a) identify the Unauthorized Use;
 - b) direct the person to take any action or measures necessary to remedy the Unauthorized Use including, but not limited to, the restoration of the County Property to a natural state; and
 - c) state the time within which the Person must comply with the Order;
 - d) state that if the Person does not comply with the Order in the specified time the County may take action or measures at the expense of the Person;
 - e) shall notify the Owner of the right to apply by written notice for a review of the Order.

- 5.5 An Order under this Bylaw may be served on a Person, and is deemed to have been served on the Person, when the Order has been:
- a) personally delivered to the Person;
 - b) left for the Person at his residence with a person on the premises who appears to be at least eighteen (18) years of age;
 - c) sent via registered mail addressed to the last known postal address of the Person; or
 - d) posted in a conspicuous place on the property referred to on the Order, when the Bylaw Enforcement Officer has reason to believe:
 - i) that the Person to whom the Order is addressed is evading service; or
 - ii) no other means of service is available.
- 5.6 If an Order is sent via registered mail as referred to in Section 5.5 (c), then it is deemed to be received the Person five (5) days after the Order was mailed.
- 5.7 No Person shall fail to comply with an Order under this section.
- 5.8 A Person who receives a written Order under this part may request a review of the Order by written notice within fourteen (14) days of the day on which the Order is received. Upon reviewing the Order, Council may confirm, vary, substitute or cancel the Order.
- 5.9 A Person affected by the decision of Council under Section 5.8 may appeal to the Court of Queen's Bench, within the time period set out in Section 548(1.1) of the *Municipal Government Act*.
- a) the procedure required to be followed by the *Municipal Government Act* or this Bylaw was not followed; or
 - b) the decision was patently unreasonable
- 5.10 The application for appeal must state the reasons for the appeal.
- 5.11 The Court may:
- a) confirm the decision; or
 - b) declare the decision invalid and send the matter back to Council with directions
- 5.12 The expenses and costs of any action or measures taken by the County under this Bylaw are an amount owing to the County by the Person in contravention of the Bylaw.
- 5.13 If the County sells all or part of a building, structure or improvement that has been removed under this bylaw, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the Person if entitled to them.
- 5.14 The expenses and costs incurred by the County in the enforcement of this Bylaw may be collected as a civil debt.

SECTION 6 – OFFENCES AND PENALTIES

- 6.1 Upon an Order being issued under this Bylaw, and expiry of the time for the Person to request the Council review the Order, the County may take whatever action or measures are necessary to remedy an Unauthorized Use and the expenses or costs shall become an amount owing to the County by the Person.
- 6.2 Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable on conviction to pay a penalty as set out on Schedule "A" herein.

SECTION 7 – VIOLATION TAGS

- 7.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2 A Violation Tag shall be served upon such a Person personally, or in the case of a corporation, by serving the Violation Tag personally upon the Manager, Secretary or other Executive Officer, or Person apparently in charge of a branch office, by mailing a copy to such Person by registered mail, or in the case of an individual, by leaving it with a person on the premises who has the appearance of being at least eighteen (18) years of age.
- 7.3 The Violation Tag shall be in a form approved by the Chief Commissioner and shall state:
- a) the name of the person;
 - b) a description of the property or County Property;
 - c) the offence;
 - d) the appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;
 - e) that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tags; and
 - f) any other information as may be required by the Chief Commissioner.
- 7.4 Where a contravention of this Bylaw is of a continuing nature, a contravention constitutes a separate offense in respect to each day or part of a day on which it continues.
- 7.5 Where a Violation Tag is issued pursuant to this Bylaw, the person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the County Treasurer the penalty specified on the Violation Tag.

SECTION 8 – VIOLATION TICKET

- 8.1 In those cases where a Violation Tag has been issued and the penalties specified on the Violation Tag have not been paid within the prescribed time, then a Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000, c.P-34, as amended or repealed and replaced from time to time.

8.2 A Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any person whom the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

SECTION 9 – GENERAL

9.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.

9.2 Evidence that a person is an owner of land contiguous to County Property on which there is an Unauthorized Use is prima facie proof that the owner of the lands is responsible for the Unauthorized Use.

9.3 The County is not required to post signage on County Property prohibiting Unauthorized Use.

9.4 The County is not liable for damages or costs to remedy an Unauthorized Use.

9.5 The County is not liable for not taking an action.

9.6 Right-of-Way Bylaw 26-91 is hereby repealed.

9.7 This Bylaw shall come into effect once it has received three readings and has been signed.

READ a first time this 24 day of April, 2007.

READ a second time this 24 day of April, 2007.

READ a third and finally passed this 8 day of May, 2007.

STRATHCONA COUNTY

Cathy Olson
MAYOR

Maureen O'Connell
MANAGER OF LEGISLATIVE AND
LEGAL SERVICES

DATE SIGNED: May 10, 2007

SCHEDULE "A" – FINES

\$1,000 – First Offence

\$2,500 – Second Offence

\$5,000 – Third and any subsequent Offence