

BYLAW NO. 1023/17

A Bylaw of Clearwater County to amend Bylaw 714/01, known as the " Land Use Bylaw"

WHEREAS Council of Clearwater County deems it desirable to amend the Clearwater County Land Use Bylaw No. 714/01 for the purpose of implementing enforcement provisions that are in alignment with current legislation;

AND WHEREAS notification of this amending Bylaw was advertised in 'The Mountaineer' and 'The Western Star' two (2) weeks prior to the Public Hearing date.

AND WHEREAS Council held a Public Hearing on June 27, 2017 and has given consideration to the representations made to it in accordance with Section 692 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, and all amendments thereto;

NOW THEREFORE after due compliance with the relevant provisions of the *Municipal Government Act* RSA 2000, Ch M-26, as amended the Council of Clearwater County duly assembled enacts the following:

1. This Bylaw shall be known as the "Land Use Amending Bylaw".
2. The current "Part Five: Enforcement" of the Land Use Bylaw is repealed and replaced with "Part Five: Enforcement" as set out in Schedule "A".
3. This Bylaw shall come into effect upon the date of final passing by Council at Third Reading.

READ A FIRST TIME this 9 day of May A.D., 2017.



REEVE



CHIEF ADMINISTRATIVE OFFICER

PUBLIC HEARING held this 27 day of June A.D., 2017.

READ A SECOND TIME this 27 day of June A.D., 2017.

READ A THIRD AND FINAL TIME this day 27 of June A.D., 2017.



REEVE



CHIEF ADMINISTRATIVE OFFICER

SCHEDULE "A"

PART FIVE: ENFORCEMENT

5.1 General

- (1) In accordance with the provisions of the **Municipal Government Act**, R.S.A. 2000 Chapter M-26, this Part Five of the Land Use Bylaw outlines the procedures for enforcing the provisions of the Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement.
- (2) For the purpose of Sections 542 and 646 of the **Municipal Government Act**, an Officer and Development Officer are designated officers for the purposes of carrying out inspections, remedial actions and enforcement.
- (3) A Development Officer may enforce the provisions of the Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement by taking any or all of the following enforcement actions:
 - a. Issuing a Written Warning,
 - b. Issuing a Stop Order,
 - c. Obtaining an Injunction Order, and
 - d. Any other lawful and authorized action to enforce compliance.
- (4) An Officer may enforce the provisions of the Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement by taking any or all of the following enforcement actions:
 - a. Issuing a Written Warning,
 - b. Issuing a Municipal Tag,
 - c. Issuing a Violation Ticket,
 - d. Obtaining an Injunction Order, and
 - e. Any other lawful and authorized action to enforce compliance.
- (5) Nothing within this Part Five shall limit or prevent the County from issuing a Stop Order in lieu of or in addition to issuing a Violation Ticket or taking any other enforcement action.

5.2 Interpretation

- (1) For the purpose of this Part Five, the following terms have the following definitions:
 - a. **Building** has the same meaning as defined in the **Municipal Government Act**;
 - b. **Bylaw Officer** means an individual employed by the County in the position of bylaw officer;
 - c. **Development Agreement** means an agreement entered into pursuant to Section 650, 651 or 655 of the **Municipal Government Act**;
 - d. **Development Officer** means:
 - i. a person authorized to exercise the responsibilities of a Development Officer pursuant to this Bylaw; and
 - ii. the Municipal Planning Commission where authorized to act as a Development Officer pursuant to this Bylaw; and
 - iii. where the Municipal Planning Commission is authorized to act as a Development Officer in

addition to a person appointed as a Development Officer, either or both of them.

- e. **Emergency** means a situation where there is imminent danger or risk to public safety or of serious environmental harm to property;
- f. **Injunction Order** means an injunction order obtained pursuant to Section 554 of the *Municipal Government Act*;
- g. **Land** means the aggregate of one or more areas of land described in a certificate of title issued by the Land Titles Office;
- h. **Municipal Tag** means a municipal tag issued by the County pursuant to the *Municipal Government Act* and this Part Five;
- i. **Occupant** means an individual or other party who occupies Land or a Building pursuant to a lease, license or other agreement with or authorization from the Owner;
- j. **Officer** means a Bylaw Officer, Peace Officer and member of the Royal Canadian Mounted Police;
- k. **Owner** means the registered owner of Land pursuant to the *Land Titles Act*;
- l. **Peace Officer** means an individual employed by the County in the position of peace officer in accordance with the *Peace Officer Act*, R.S.A. 2006, Chapter P-3.5;
- m. **Person** means any individual, partnership, firm, corporation, municipality, association, society, political or other group, and the heirs, executors, administrators or other legal representatives of a Person to whom the context can apply according to law;
- n. **Reasonable Notice** means not less than 48 hours except in the case of an Emergency or extraordinary circumstance when no notice needs to be given;
- o. **Reasonable Time** means any time between 9 am and 6 pm on any weekday, with the exception of statutory holidays, or as otherwise agreed to in writing by the Owner or Occupant of the subject Land or Building;
- p. **Specified Penalty** has the same meaning as defined in the *Provincial Offences Procedure Act* (Alberta);
- q. **Stop Order** means an order issued pursuant to Section 645 of the *Municipal Government Act*;
- r. **Violation Ticket** means a violation ticket issued pursuant to either Part 2 or Part 3 of the *Provincial Offences Procedures Act* (Alberta);
- s. **Written Warning** means a written warning issued pursuant to this Part Five.

5.3 Right of Entry: Inspections, Remedial and Enforcement Action

- (1) After providing Reasonable Notice to the Owner or Occupant of Land or a Building in accordance with Section 542 of the *Municipal Government Act*, an Officer or Development Officer may enter into or onto any Land or Building at a Reasonable Time for the purpose of determining if the requirements of this Land Use Bylaw, Part 17 of the *Municipal Government Act* or its regulations, a Development Permit, Subdivision approval or Development Agreement are being complied with or for the purpose of carrying out remedial or enforcement action authorized by this Land Use Bylaw, the *Municipal Government Act* or an Injunction Order.
- (2) Notwithstanding 5.3(1), in an Emergency or extraordinary circumstance, the Officer or Development Officer does not need to provide Reasonable Notice to the Owner or Occupant and the Officer or Development Officer may enter upon or into Land or a Building without the consent of the Owner or Occupant at any time.

- (3) No Person shall prevent or obstruct an Officer or Development Officer from carrying out any official duty pursuant to this Land Use Bylaw.
- (4) If a Person prevents, obstructs or interferes with an Officer or Development Officer carrying out any official duty under this Land Use Bylaw or if a person refuses to produce anything to assist the Officer or Development Officer in the inspection, remedial action or enforcement action, then the County may apply to the Court of Queen's Bench for an order pursuant to Section 543 of the **Municipal Government Act**.

5.4 Written Warning

- (1) Where the Development Officer or Officer determines that a development, land use or use of a Building is in contravention of this Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement, he/she may issue a Written Warning to the Owner(s) and/or Occupant(s) of the subject Land and/or Building and/or the person responsible for the contravention.
- (2) The Written Warning shall:
 - a. Describe the subject Land or Building by municipal address or location and/or legal description,
 - b. State the nature of the contravention,
 - c. State what remedial measures or action must be taken to remedy the contravention,
 - d. State a time within which the Owner(s) and/or Occupant(s) must complete the remedial measures or action which, unless a matter posing a safety risk to life or property, must not be less than seven (7) days from the date of delivery of the Written Warning,
 - e. Advise that if the Written Warning is not adhered to, the County may undertake further enforcement measures pursuant to the Land Use Bylaw and the **Municipal Government Act**.

5.5 Stop Order

- (1) Where the Development Officer determines that a development, land use or use of a Building is in contravention of this Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement, he/she may issue a Stop Order to any or all of the Owner(s) and/or Occupant(s) of the subject Land and/or Building and/or the person responsible for the contravention.
- (2) The Stop Order shall:
 - a. Describe the subject Land or Building by municipal address or location and/or legal description,
 - b. State the nature of the contravention,
 - c. Direct the Owner(s), Occupant(s) and/or person(s) responsible for the contravention to:
 - i. Stop the development or use of the Land or Building in whole or in part as directed by the Stop Order,
 - ii. Demolish, remove or replace the development,
 - iii. Carry out any other actions required by the Stop Order so that the development or use of Land or Building is brought into compliance with this Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a

Subdivision approval and/or Development Agreement

within the time set out in the Stop Order,

- d. Unless a matter posing a safety risk to life or property, the time period for bringing the development, Land or Building into compliance must not be less than fourteen (14) days from the date of delivery of the Stop Order,
- e. Advise that the party(ies) to whom the Stop Order is issued may appeal the Stop Order to the Subdivision Development Appeal Board in accordance with Section 685 of the **Municipal Government Act**,
- f. Advise that if the Stop Order is not adhered to, the County may undertake further enforcement measures pursuant to the Land Use Bylaw and the **Municipal Government Act** including but not limited to:
 - i. entering onto or into the Land or Building and performing the necessary remedial action pursuant to Section 542 and 646 of the **Municipal Government Act**,
 - ii. obtaining an Injunction Order,
 - iii. issuing a Municipal Tag,
 - iv. issuing a Violation Ticket, and/or
 - v. registering the Stop Order on the certificate of title to the subject Land pursuant to Section 646 of the **Municipal Government Act**,
- g. Advise that the costs and expenses incurred by the County in enforcing the Stop Order may be added to the tax roll of the subject Land whereby the amount will be deemed to be a property tax imposed under Division 2 of Part 10 of the **Municipal Government Act** from the date that it was added to the tax roll and will form a special lien against the Land in favor of the County from the date it was added to the tax roll, in accordance with Section 553 of **the Municipal Government Act**.

5.6 Municipal Tag

An Officer is hereby authorized and empowered to issue a Municipal Tag to any Person whom the Officer has reasonable and probable grounds to believe has contravened any provision of this Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement.

- (1) The Municipal Tag shall be in a form approved by the Chief Administrative Officer and shall state:
 - a. The Person's name,
 - b. The offence,
 - c. The appropriate voluntary penalty for the offence as specified in this Bylaw,
 - d. That the voluntary penalty shall be paid within (14) days of issuance of the Municipal Tag to avoid further prosecution;
 - e. the method by which the tag may be paid; and
 - f. Any other information as may be required by the Chief Administrative Officer.
- (2) Where a contravention of this Bylaw is of a continuing nature, further Municipal Tags may be issued by the Officer provided, however, that no more than one Municipal Tag shall be issued for each day that the contravention continues.

- (3) Where a Municipal Tag has been issued in accordance with this Bylaw, the Person to whom the Municipal Tag has been issued may, in lieu of being prosecuted for the offence, pay to the County Cashier the penalty within the time frame specified in the Municipal Tag.
- (4) The voluntary penalty issued on a Municipal tag shall be 50% of the Specified Penalty amount for a first offence if payment is received within the time frame noted in 5.7 (3)(d).
- (5) Nothing in this Bylaw shall prevent an Officer from immediately issuing a Violation Ticket.

5.7 Service of Written Warning, Stop Orders and Municipal Tags

- (1) In any case where an Officer or Development Officer issues a Written Warning, Stop Order or Municipal Tag to any Person pursuant to this Part Five, the Officer or Development Officer shall effect such service either:
 - a. by causing a written copy of the Written Warning, Stop Order or Municipal Tag to be personally delivered to the Person named in the Written Warning, Stop Order or Municipal Tag,
 - b. in the case of an individual, by causing a written copy of the Written Warning, Stop Order or Municipal Tag to be delivered and left with a person of at least 18 years of age at the Person's residence,
 - c. in the case of a corporation, by sending a written copy of the Written Warning, Stop Order or Municipal Tag by registered mail to the registered office of the corporation, or by delivering it personally to the manager, secretary or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address,
 - d. by causing a written copy of the Written Warning, Stop Order or Municipal Tag to be delivered to and left in a conspicuous place at or about the subject Lands or Building; or
 - e. by causing a written copy of the Written Warning, Stop Order or Municipal Tag to be mailed or delivered to the last known address of the Person as disclosed in the land registry system established by the Land Titles Act of Alberta as shall appear to the Officer or Development Officer most appropriate in the circumstances,

and such service shall be adequate for the purposes of this Bylaw.

5.8 Violation Ticket

- (1) An Officer is hereby authorized and empowered to issue a Violation Ticket to any Person where the Officer has reasonable and probable grounds to believe that Person has contravened any provision of this Land Use Bylaw, Part 17 of the **Municipal Government Act** and its regulations, a Development Permit, a Subdivision approval or Development Agreement.
- (2) Where a Municipal tag has been issued and the penalty specified on the Municipal Tag is not paid within the prescribed time, an Officer is hereby authorized and empowered to issue a Violation ticket pursuant to either Part 2 or Part 3 of the Provincial Offences Procedures Act.

- (3) A violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the person or corporation responsible for the contravention in accordance with the Provincial Offences Procedure Act.
- (4) If a VIOLATION TICKET is issued in respect to an offence, the violation ticket may:
 - a. Specify the fine amount established by this Bylaw for the offence, or
 - b. Require a Person to appear in Court without the alternative of making a voluntary payment.
- (5) Where a Violation Ticket has been issued to a Person and the Violation Ticket specifies the penalty amount to be imposed, the Person may make a voluntary payment in the amount equal to the penalty amount specified in the Violation Ticket. The recording of the payment of a penalty made to the County or the Provincial Court of Alberta shall constitute an acceptance of a guilty plea and constitutes a conviction for the offence and the imposition of a fine in the amount of the specified penalty.

5.9 Offences

- (1) Any Person who
 - a. Violates or contravenes or causes, allows or permits a contravention of Part 17 of the ***Municipal Government Act*** or its regulations,
 - b. violates or contravenes or causes, allows or permits a contravention of any provision of the Land Use Bylaw,
 - c. contravenes or fails to comply with a Development Permit or any conditions forming part of the Development Permit,
 - d. contravenes or fails to comply with a subdivision approval or any conditions forming part of a subdivision approval,
 - e. contravenes or fails to comply with the provisions of a Development Agreement,
 - f. fails to comply with the directions set out in a Stop Order within the time frame specified,
 - g. authorizes or proceeds with any development that is at variance with the description, specification or plans that were the basis for the issuance of the Development Permit,
 - h. authorizes or proceeds with any subdivision that is at variance with the description, specification or plans that were the basis for the issuance of the subdivision approval,
 - i. continues development after a Development Permit has expired or has been revoked or suspended,
 - j. continues with subdivision after the subdivision approval has expired, been revoked or suspended,

is guilty of an offence and is liable upon summary conviction to a fine in an amount specified in this Bylaw under section 5.9.

- (2) All offences created under the Bylaw shall be interpreted to be strict liability offences.
- (3) Where a contravention of the Bylaw is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues.

5.10 Penalties

- (1) A Person who is convicted of an offence pursuant to this Bylaw is liable upon summary conviction to a fine in an amount:

- a. For a first offence, a Specified Penalty of not less than \$500.00
- b. For a second offence of the same offence, a Specified Penalty of not less than \$1050.00
- c. For a third or subsequent offence of the same offence a mandatory court appearance shall be required with a Specified Penalty of not less than \$2,500.00.

(2) Payment of any penalty or fine imposed pursuant to this Bylaw does not relieve a Person from the necessity of paying any fees, charges or costs for which that Person is liable under the provisions of this Bylaw or any other bylaw or enactment.