



## **BYLAW 928/10**

A BYLAW OF CLEARWATER COUNTY IN THE PROVINCE OF ALBERTA,  
FOR THE PURPOSES OF PROHIBITING THE PROVISION OF WASTE  
MANAGEMENT SERVICES BY ANY OTHER PERSON WITHIN THE  
COUNTY.

**WHEREAS** a Council may pass bylaws for municipal purposes respecting services provided by or on behalf of the municipality;

**AND WHEREAS** a Council may pass bylaws for municipal purposes respecting public utilities;

**AND WHEREAS** a Council may by bylaw prohibit any person other than the municipality from providing the same or similar type of utility service in all or part of the municipality;

**NOW THEREFORE** the Council of Clearwater 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 "Waste Management Services Bylaw".

### **SECTION 2 - PURPOSE**

2.1 The purpose of this bylaw is to prohibit any person other than the County from providing Waste Management Services within the jurisdiction of the County as set forth within this Bylaw.

### **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3.1 "Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time.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 "Affiliates" has the same meaning as ascribed to the term "affiliates" in the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended or repealed and replaced from time to time

3.3 "Authorized User" means any one of the following:

(a) CCS Inc., having operations only on landfills located on lands legally described as:

(i) 1-40-9-W5 and 12-40-9-W5; and

(ii) SW-12-43-07-W5 and NW-01-43-07-W5;

(b) Secure Energy Services Inc., having operations only on the landfill located on lands legally described as SE-24-43-7-W5 and NE-13-43-7-W5; and

(c) The Rocky Mountain Regional Solid Waste Authority, which is a joint venture between the County, the Town of Rocky Mountain House and the Village of Caroline under the name of "Rocky Mountain Regional Solid Waste Authority", working collectively in the provision of Waste Management Services, within each of their municipal boundaries.

- 3.4 “Bylaw” means this bylaw, together with any schedules or exhibits attached hereto.
- 3.5 “Council” means the council of the County.
- 3.6 “County” means Clearwater County.
- 3.7 “Designated Officer” shall have the meaning provided at section 1(1)(h) of the Act.
- 3.8 “Landfill” has the same meaning as ascribed to the term “landfill” in the *Waste Control Regulation*, A.R. 192/96, enacted pursuant to the *Environmental Protection and Enhancement Act*, R.S.A. 2000, E-12, as amended or repealed and replaced from time to time.
- 3.9 “Order” means an Order issued under this Bylaw in accordance with the Act.
- 3.10 “Peace Officer” means a person employed for the purpose of preserving and maintaining the public peace and includes a member of the RCMP, a peace officer appointed pursuant to the *Peace Officer Act*, S.A. 2000, c. P-3.5, as amended or repealed and replaced from time to time, and a bylaw enforcement officer appointed by the County under the Act.
- 3.11 “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, its agents or duly authorized representatives.
- 3.12 “Private Property” means land either owned or leased by a person, group, corporation or such other entity, that is not a governmental body.
- 3.13 “Property” means any lands, buildings, structures or premises, or any personal property located thereupon, within the municipal boundaries of the County.
- 3.14 “Provincial Offences Procedure Act” means the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time;
- 3.15 “Unauthorized Service” means:
- (a) the provision of Waste Management Service within the municipal boundaries of the County by any Person other than the County or any of the Authorized Users, their Affiliates, agents or duly authorized representatives, or a Person duly authorized by the County pursuant to Section 45 of the Act or otherwise; and
  - (b) the purchase or receipt of any Waste Management Service within the municipal boundaries of the County other than the County or any of the Authorized Users, their Affiliates, agents or duly authorized representatives, or a Person duly authorized by the County pursuant to Section 45 of the Act or otherwise.
- 3.16 “Violation Ticket” means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*, and any Regulations thereunder.
- 3.17 “Waste” has the same meaning as ascribed to the term “waste” in the *Waste Control Regulation*, A.R. 192/96, enacted pursuant to the *Environmental Protection and Enhancement Act*, R.S.A. 2000, E-12, as amended or repealed and replaced from time to time.
- 3.18 “Waste Management Services” means the operation of a Landfill.

#### **SECTION 4 – PROHIBITION**

- 4.1 No Person shall provide Waste Management Services within the municipal boundaries of the County, other than the County, an Authorized User, or a person authorized by the County pursuant to the Act or otherwise.

- 4.2 No Unauthorized Service shall occur within the municipal boundaries of the County.
- 4.3 Any Person that fails to comply with sections 4.1 or 4.2 of this Bylaw shall be guilty of an offence and liable, upon summary conviction, to the penalty set out at Schedule "A" to this Bylaw.

#### **SECTION 5 - ENFORCEMENT**

- 5.1 A Designated Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter in or upon any Private Property, in accordance with Section 542 of the Act, to carry out an inspection, enforcement or other action required or authorized by this Bylaw, the Act, or other statute.
- 5.2 When exercising his authority to enter onto Private Property for inspection or enforcement under Section 5.1, a Designated Officer shall provide the Owner or Occupant of the Property with reasonable notice as required by the Act.
- 5.3 Where a Designated Officer determines that a contravention of this Bylaw is occurring or is about to occur, he may issue an Order pursuant to section 545 of the Act to the owner or occupant of the lands upon which all or a part of the contravention is occurring or about to occur, to a Person responsible for the contravention who is not the owner or occupant, or to any or all of them.
- 5.4 An Order issued by a Designated Officer under Section 5.3 shall:
  - (a) identify the person or persons to whom it is issued;
  - (b) identify the nature of the Unauthorized Service;
  - (c) direct the person to take any action or measures necessary to remedy the Unauthorized Service including, but not limited to, the cessation of the provision of Waste Management Services;
  - (d) state the time within which the Person must comply with the Order;
  - (e) 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;
  - (f) notify the Owner of the right to apply by written notice for a review of the Order by the Council.
- 5.5 An Order under this Bylaw is deemed to be served on the Person who it is addressed when the Order has been:
  - (a) in the case of an individual, delivered personally to the individual, or left for the individual at his or her residence with a Person on the premises who appears to at least eighteen (18) years of age;
  - (b) upon confirmation of receipt of the Order by the Person to whom it is addressed by registered mail;
  - (c) in the case of a partnership or corporation, by registered mail or personal deliver to either the registered office or business address of the partnership or corporation; or
  - (d) in the event that the County is unsuccessful in its attempts to serve the Order pursuant to subsections (a), (b) or (c) above, a Designated Officer may post a copy of the Order in a conspicuous place on the Lands referred to in the Order, when the Designated Officer has reason to believe that the Person to whom the Order is addressed is evading service, and that there is no other reasonable means of service available.
- 5.6 No Person to whom an Order has been issued shall fail to comply with the requirements of that Order within the time limits imposed.

- 5.7 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, the Council may confirm, vary, substitute or cancel the Order.
- 5.8 A Person affected by the decision of Council under Section 5.7 may appeal to the Court of Queen's Bench on the grounds permitted under Section 548(1) of the Act, within the time period set out in Section 548(1.1) of the Act.
- 5.9 The application for appeal must state the reasons for the appeal.
- 5.10 The expenses and costs of any action or measure taken by the County under this Bylaw, including the costs and expenses of legal advice on a solicitor and his own client full indemnity basis provided in relation to any inspection under, or enforcement of this Bylaw, are an amount owing to the County by the Person in contravention of the Bylaw.
- 5.11 The expenses and costs incurred by the County in the enforcement of this Bylaw may be collected as a civil debt or, if applicable, by adding the costs and expenses to the tax roll for property owned by the person to whom the Order is issued, where the contravention has occurred on all or a part of that property.
- 5.12 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 Service, and the expenses or costs shall become an amount owing to the County by the Person.

#### **SECTION 6 – OFFENCES AND PENALTIES**

- 6.1 Regardless of whether an Order has been issued pursuant to this Bylaw, any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to the specified penalty for that offence as set out on Schedule "A" herein.
- 6.2 Under no circumstances shall any Person contravening any provision of this Bylaw be subject to a penalty of imprisonment.

#### **SECTION 7 – VIOLATION TICKETS**

- 7.1 The Peace Officer is hereby authorized and empowered to issue a Violation Ticket to any Person whom the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2 A Violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the Provincial Offences Procedure Act.
- 7.3 The Person to whom the Violation Ticket has been issued may plead guilty by making a voluntary payment in respect of the Summons by delivering to the Provincial Court, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offences as set out in Schedule "A".
- 7.4 When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to section 7.3 and the Provincial Offences Procedure Act, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of a specified penalty.

#### **SECTION 8 – GENERAL**

- 8.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained and deemed valid.
- 8.2 Evidence that a Person is either the owner or leaseholder of Property or Private Property providing an Unauthorized Service is *prima facie* proof that the Person is responsible for the Unauthorized Service.

- 8.3 The County is not liable for damages or costs to remedy an Unauthorized Service.
- 8.4 The County is not liable for not taking an action on or in respect of an Unauthorized Service, and in no event that any such inaction be deemed or interpreted as an authorization of any Unauthorized Service.
- 8.5 This Bylaw shall come into full force and effect on the day that it is finally passed by Council by giving it third and final reading and it is signed in accordance with the Act.

READ a first time this \_\_\_\_ day of \_\_\_\_\_, 2010.

READ a second time this \_\_\_\_ day of \_\_\_\_\_, 2010.

READ a third and finally passed this \_\_\_\_ day of \_\_\_\_\_, 2010.

**CLEARWATER COUNTY**

\_\_\_\_\_  
REEVE

\_\_\_\_\_  
MUNICIPAL MANAGER

**SCHEDULE "A" – SPECIFIED PENALTY**

**SPECIFIED PENALTIES**

OFFENCE:	SPECIFIED PENALTY
Contravention of any provision of the Bylaw	\$10,000.00