

BYLAW NO. B-13/2009
OF THE CITY OF AIRDRIE
IN THE PROVINCE OF ALBERTA

BEING A BYLAW of the City of Airdrie to establish a "Parks Bylaw" for the City of Airdrie to protect Airdrie's open spaces and green infrastructure and to ensure a viable parks system.

WHEREAS, the City of Airdrie is desirous of protecting and facilitating the management of its green infrastructure and ensuring the continued viability of this infrastructure; and

WHEREAS, the *Municipal Government Act*, R.S.A. 2000, c. M-26, provides that Council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public; and

WHEREAS Council for the City of Airdrie deems it appropriate to ensure the protection of public utilities such as the urban forest, boulevards, parks and other infrastructure and to enact a Parks Bylaw to accomplish those objectives;

NOW THEREFORE, the Council of the City of Airdrie, in the Province of Alberta, duly assembled, enacts as follows:

Section 1 Title

1.01 This Bylaw shall be cited as the "Parks Bylaw."

Section 2 Definitions

2.01 For the purpose of this bylaw the following words shall have the following meanings:

- (a) "Chief Administrative Officer" means the person appointed to the position and title of City Manager by Council, or his delegate.
- (b) "City" means the City of Airdrie.
- (c) "City Titled Land" means land owned by the City and includes municipal reserve, municipal road right-of-way, environmental reserve, other public utility lots, and any other land that the City has title to.
- (d) "City Tree" means any tree that the trunk at the ground is fifty (50%) percent or greater on City Titled Land.
- (e) "Educational Authority" shall means a school district or division established under *The School Act*, RSA 2000, c. S-3, or any amendments thereto.
- (f) "Motorized Vehicle" means a vehicle that is powered by a motor.
- (g) "Natural Area" means any area that is designated as "environmental reserve" or "locally significant natural area" or is kept in a state that either preserves or encourages the growth of native vegetation and is not a naturalized landscape area.
- (h) "Naturalized Landscape Area" means an area owned by the City that is kept in a state that either preserves or encourages the growth of native vegetation and hardy species and is not manicured.

- (i) "Open Space Area" shall mean any land in the City that is developed, used, leased, controlled or managed by the City as a public park, sports field, playground, parking lot, or recreational area, including, without limiting the generality of the foregoing, all lands in the City that are jointly controlled or managed by the City and an Educational Authority for any of the purposes previously described.
- (j) "Park" means an area designated as Public Service (P-1) District in the Land Use Bylaw that is used or intended to be used for municipal purposes and land titled to the City as reserve, municipal reserve (MR), municipal and school reserve (MSR), environmental reserve (ER), public utility lots and includes boulevards and medians within road right of ways.
- (k) "Park Equipment" means a structure installed in a Park by the City for the purpose of play or exercise.
- (l) "Park Infrastructure" means any structure, amenity or plant material that could be found in any Park.
- (m) "Pathway" means any multiple-use path whether of asphalt, concrete, shale or gravel surface and does not include a sidewalk.
- (n) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Community Peace Officer appointed under the *Peace Officer Act*, or a Bylaw Enforcement Officer appointed under the *Municipal Government Act*.
- (o) "Person" includes an individual, proprietorship, corporation or society.
- (p) "Public Utility" means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use:
 - (i) water or steam;
 - (ii) sewage disposal;
 - (iii) public transportation operated by or on behalf of the City;
 - (iv) irrigation;
 - (v) drainage;
 - (vi) fuel;
 - (vii) electric power;
 - (viii) heating and cooling;
 - (ix) roads, sidewalks or pathways;
 - (x) waste management; and
 - (xi) telecommunications and cable television;and includes the thing that is provided for public consumption, benefit, convenience or use;
- (q) "Sidewalk" means any multiple-use path whether of asphalt or concrete that is within a road right of way and located adjacent to the property line of a home that is designed to provide direct pedestrian access to a residence; and

- (r) "Tree" means any woody perennial that has the potential of growing to a height of five (5) metres or taller.

Section 3 Use of Parks

3.01 No person shall:

- (a) dispose of any product in either solid or liquid form on City Titled Land or land that will become City Titled Land;
- (b) use or dispose of fertilizer, pesticides and/or herbicides on City Titled Land without prior approval from the Chief Administrative Officer;
- (c) allow water to accumulate and become stagnant, thus providing an environment that encourages mosquitos to breed;
- (d) drive a motorized vehicle in a City Park without prior approval from the Chief Administrative Officer;
- (e) mow or alter by any means land designated as a Natural Area or Naturalized Landscape Area;
- (f) divert or direct the flow of ground water through or to a Park;
- (g) locate the outfall from downspouts, sump pumps or any other water source closer than:
 - (i) two (2) metres from any property line that abuts the property line of a Park; or
 - (ii) thirty and one-half (30.5) centimeters in the event where a side yard of less than two (2) metres abuts a property line of a Park;
- (h) remove, destroy or deface any Park Infrastructure;
- (i) have fires in any or on any City Titled Land, Natural Area, Naturalized Landscape Area, or Park Infrastructure except in designated fire pits located in City Parks;
- (j) plant all or any portion of a tree on City Titled Land without prior authorization of the Chief Administrative Officer and in accordance with the Urban Forest Policy;
- (k) remove, move, prune, cut, debark, or penetrate the bark of any portion of a City Tree without prior authorization of the Chief Administrative Officer and in accordance with the Urban Forest Policy;
- (l) secure in any fashion, without penetrating the bark, any object or poster to a City Tree;
- (m) throw, hit, shoot, propel or otherwise cause to be airborne on City Titled Land or land that will become City Titled Land, Natural Area, Naturalized Landscape Area, or Park any golf ball, dart or like projectile which can potentially cause physical discomfort, injury or suffering unless the area is specifically designated for said activity; or
- (n) allow their dog to be within the bordered area that surrounds a piece of Park Equipment.

- 3.02 In the event that a person has caused, directly or indirectly, sufficient damage to a City Tree to warrant its removal, said person shall be liable for the cost of replacing the City Tree in accordance with the standards and specifications and valuation method used by the City. The size and the age of the tree will determine whether a replacement cost method or trunk replacement method will be used in calculating the value of the tree. The valuation method used by the City comes from the most current edition of the *Alberta Tree Species Rating Guide* and is calculated based on *A Guide*

for *Plant* Appraisal issued by the Council of Tree and Landscape Appraisers. This clause is in addition to and does not affect the ability of a Peace Officer to exercise his authority in issuing an Order to Remedy, Voluntary Payment Tag or Violation Ticket.

- 3.03 Any pest or disease considered to be contagious found on a private tree that could affect the health of any City Tree shall be treated, removed and/or disposed of in accordance with the direction of the City.
- 3.04 In accordance with the governing regulations, public utility companies may perform pruning as required by safety regulations to maintain the safe operation of their infrastructure provided that:
- (a) The Parks Department is notified in advance by the utility company of any utility line clearing that will affect a City Tree or crews requiring access through City Titled Land.
 - (b) The utility company or its subcontractors adhere to all provisions of this Bylaw.
 - (c) The Chief Administrative Officer reserves the right to halt utility line pruning of City Trees if the pruning does not adhere to current arboriculture practices.
- 3.05 Any construction within six (6) metres of a City tree must be completed in accordance with a tree protection plan that meets City specifications and is approved by the Chief Administrative Officer prior to the commencement of any work.

Section 4 Open Space Area

- 4.01 This Section shall apply to all Open Space Areas in the City subject to the exceptions provided in any statute of the Province of Alberta or any agreement entered into by the City affecting any Open Space Area or part thereof.
- 4.02 The Chief Administrative Officer or his delegate shall have general supervision, charge and control of the management and operation of Open Space Areas in accordance with policies adopted by Council.
- 4.03 The hours of operation for any and all Open Space Areas shall be from 5:00 a.m. until 11:00 p.m. each and every day. Except as otherwise provided in this bylaw, no person shall use Open Space Areas outside permitted hours without the prior written consent of the City Manager or his delegate.
- 4.04 Paragraph 4.03 shall not apply to persons passing directly through an Open Space Area on their way to a destination outside the Open Space Area.
- 4.05 A Peace Officer or any other person authorized by Council to enforce this Bylaw may remove or have removed any person that violates any provision of this Section and who has refused to leave an Open Space Area immediately after being requested to do so.
- 4.06 No Electric Vehicle or Motorized Vehicle shall be left or parked in an Open Space Area outside of the hours of operation.
- 4.07 A Peace Officer or any other person authorized by Council to enforce this Bylaw may remove or have removed any Electric Vehicle or Motorized Vehicle that is left or parked in an Open Space Area outside of the hours of operation and any costs associated with said removal shall become a cost owing to the City by the registered owner or owner of said Electric Vehicle or Motorized Vehicle.
- 4.08 No person shall store or hold any substance or thing in an Open Space Area without the prior written permission of the City.

Section 5 Penalties

- 5.01 Any person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not less than Two Hundred Fifty (\$250.00) Dollars and not more than Two Thousand Five Hundred (\$2,500.00) Dollars. No person found guilty of an offence under this Bylaw shall be liable for imprisonment.
- 5.02 The specified fines for an offence committed pursuant to this bylaw are set out in the attached Schedule "A."
- 5.03 In the case of an offence that 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.

Section 6 Order to Remedy

- 6.01 A Peace Officer is hereby authorized and empowered to issue an Order to Remedy to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 6.02 If the person to whom an Order to Remedy has been issued fails to comply with the Order to Remedy within the time specified therein:
- (a) the City may take whatever steps are necessary to remedy the contravention of the Bylaw and the cost of doing so becomes a debt owing to the City by the person to whom the order was issued;
 - (b) Any items removed pursuant to this section, if deemed of value by the City, will be removed to a place of safe keeping and will:
 - (i) be assessed a daily fee for storage as may be determined from time to time by the Chief Administrative Officer; and
 - (ii) if unclaimed within thirty (30) days, be sold at public auction.
- 6.03 Nothing in this Bylaw shall prevent a Peace Officer from issuing a Voluntary Payment Tag or Violation Ticket for the mandatory Court appearance of any person who contravenes any provision of this Bylaw.

Section 7 Voluntary Payment Tag

- 7.01 A Peace Officer is hereby authorized and empowered to issue a Voluntary Payment Tag to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.02 A municipal Voluntary Payment Tag may be issued to such person:
- (a) either personally; or
 - (b) by mailing a copy to such person at his last known address.
- 7.03 Where a contravention of this Bylaw is of a continuing nature, further Voluntary Payment Tags or Summons may be issued by a Peace Officer provided that no more than one Voluntary Payment Tag or Summons shall be issued for each calendar day that the contravention continues.

7.04 Where a Voluntary Payment Tag is issued pursuant to this Bylaw, the person to whom the Voluntary Payment Tag is issued may, in lieu of being prosecuted for the offence, pay to the City the penalty specified on the Voluntary Payment Tag.

7.05 Nothing in this Bylaw shall prevent a Peace Officer from issuing a Violation Ticket for the mandatory Court appearance of any person who contravenes any provision of this Bylaw.

Section 8 Violation Ticket

8.01 If the penalty specified on a Voluntary Payment Tag is not paid within the prescribed time period, then a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the Provincial Offences Procedure Act.

8.02 Notwithstanding any other provision of this Bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act* to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this bylaw.

Section 9 Miscellaneous

9.01 Nothing in this Bylaw relieves a person from complying with any federal or provincial law or regulation, other bylaw or any requirements of any lawful permit, order, consent or other direction.

9.02 Where this Bylaw refers to another Act, Regulation or agency, it includes reference to any Act, Regulation or agency that may be substituted therefor.

9.03 Every provision of this Bylaw is independent of all other provisions, if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.


9.04 Bylaw No. 18/1992 and Bylaw No. B-06/1999 are hereby repealed in their entirety.

READ a first time this 6th day of April, 2009.

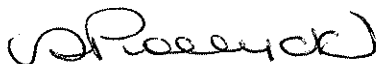
READ a second time this 20th day of April, 2009.

READ a third time this 20th day of April, 2009.

EXECUTED this 27 day of April, 2009.



Mayor



City Clerk

Schedule "A"

Voluntary Payment Tag

Section	Offence	Amount
3.01(k)	Planting a tree on City Titled Land without prior authorization	\$400.00
3.01(l)	Removing, moving, pruning, or cutting a City Tree without prior authorization	\$500.00
3.01(l)	Debarking or penetrating the bark of a City Tree without prior authorization	\$300.00
	First offence – all other sections	\$250.00
	Second or subsequent offence within twelve (12) months – all sections	\$500.00