

**Bylaw No. 015-09
of the Town of Chestermere
In the Province of Alberta**

Being a bylaw to establish hours of operation for open space areas within the Town of Chestermere.

WHEREAS under the authority and subject to the provisions of the Municipal Government Act, Statutes of Alberta, 1994, Chapter M-26.1 and amendments thereto, Council may pass bylaws respecting all matters pertaining to the control and operation of open space areas; and

WHEREAS Council deems it desirable to establish hours of operation for open space areas within the Town of Chestermere;

NOW THEREFORE the Municipal Council of the Town of Chestermere, in Council duly assembled, enacts as follows that:

SECTION 1 - SHORT TITLE

This Bylaw may be cited as the "Hours of Operation Bylaw for Open Space Areas".

SECTION 2 - DEFINITIONS

In this Bylaw, unless the context otherwise requires:

- 2.1 "Education Authority" shall mean the Rocky View School Division No. 41 and/or the Calgary Catholic School District.
- 2.2 "Emergency" means an unforeseen combination of circumstances or the resulting event that requires immediate action. This includes, but is not limited to a fire, natural disaster, a motor vehicle collision, or any other situation beyond the control of anyone, and requiring immediate action to prevent injury or death
- 2.3 "Open Space Area" shall mean any of the following:
 - 2.3.1 Any land in the Town which is developed, used, leased, controlled or managed by the Town as a public park, sports field, playground or recreational area, including, without restricting the generality of the foregoing, all lands in the Town which are jointly controlled or managed by the Town and an Educational Authority for any of the purposes previously described;
 - 2.3.2 Any land acquired by the Town through the subdivision process a reserve;
 - 2.3.3 Any land used as a highway buffer strip, whether on a permanent or temporary basis;
 - 2.3.4 Any land designated by resolution of Council as an Open Space Area for the purposes of this bylaw; and
 - 2.3.5 Any land developed by the Town as a pathway.
- 2.4 "Pathway" shall include any multiple-use path whether of asphalt, concrete or shale surface.
- 2.5 "Peace Officer" shall mean a member of the Royal Canadian Mounted Police., a Community Peace Officer, a Bylaw Enforcement Officer or any person employed for the purposes of preserving and maintaining the public peace.

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SECTION 3 - APPLICATIONS

- 3.1 This Bylaw shall apply to all Open Space Areas in the Town of Chestermere subject to the exceptions provided in any statute of the Province of Alberta or any agreement entered into by the Town affecting any Open Space Area or part thereof.
- 3.2 The Chief Administrative Officer, or his designate, shall have general supervision, charge and control of the management and operation of Open Space Areas in accordance with policies adopted by Council.

SECTION 4 - HOURS OF OPERATION

- 4.1 The hours of operation for any and all Open Space Areas shall be from 5:00 AM until 12:00 AM each and every day.
- 4.2 No person is permitted to be within an Open Space Area outside of the hours of operation.
- 4.3 Notwithstanding anything contained herein, it shall not be a violation of this Bylaw for a person to be in an Open Space Area outside of the hours of operation:
 - 4.3.1 if said person is passing through an Open Space Area en route directly to an area outside an Open Space Area
 - 4.3.2 involved in an Emergency as defined in this Bylaw or within the definition of an Emergency as established by a peace officer
 - 4.3.3 engaged in activities under the direct authority and with the consent of the Town of Chestermere
 - 4.3.4 engaged in recreation or community activities as authorized by the Town of Chestermere

SECTION 5 - ENFORCEMENT

- 5.1 Enforcement of this Bylaw lies within the sole discretion of the Peace Officer.
- 5.2 Under no circumstances shall any person contravening any provision of this Bylaw be subject to the penalty of imprisonment.
- 5.3 A Peace Officer may request identification and information from anyone who is found within an Open Space Area outside of the hours of operation, for the purposes of:
 - 5.3.1 confirming their activities fall under the provisions as outlined in Section 4.3 of this Bylaw
 - 5.3.2 obtaining personal information for enforcement purposes in relation to this Bylaw
- 5.4 At the sole discretion of a Peace Officer, in lieu of being issued a Violation Tag for contravention of this Bylaw, the Peace Officer may direct a person found to be in contravention of this Bylaw, to immediately leave the Open Space Area.

SECTION 6 - REMOVALS

- 6.1 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 bylaw and who has refused to leave an Open Space Area immediately after being requested to do so.



SECTION 7 - PENALTIES

- 7.1 Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon conviction to a fine as set out in Schedule "A" which is attached hereto and forms part of this Bylaw.

SECTION 8 - VIOLATION TAGS

- 8.1 A Peace Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 8.2 A Violation Tag may be issued to such person:
- 8.2.1 either personally; or
 - 8.2.2 by mailing a copy to such person at his/her last known post office address.
- 8.3 The Violation Tag shall be in a form approved by the Town of Chestermere and shall state:
- 8.3.1 the name of the person;
 - 8.3.2 the offence;
 - 8.3.3 the appropriate penalty for the offence as set out in this Bylaw;
 - 8.3.4 that the penalty shall be paid within Twenty Two (22) days of the issuance of the Violation Tag;
 - 8.3.5 any other information as may be required by the Town of Chestermere.
- 8.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by the Peace Officer, provided that no more than one Violation Tag shall be issued for each day (24 hour period) that the contravention continues.
- 8.5 Where a Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued, may in lieu of being prosecuted for the offence, pay to the Town of Chestermere Treasurer the penalty specified on the Violation Tag.
- 8.6 Nothing in this Bylaw shall prevent a Peace Officer from immediately issuing a Violation Ticket with a specified penalty or for the mandatory Court appearance of any Person who contravenes any provision of this Bylaw.

SECTION 9 - VIOLATION TICKET

- 9.1 If the penalty specified of the Violation 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 Part II of the Provincial Offences Procedure Act, RSA 2000, c. P-34.
- 9.2 Notwithstanding Section 8.1 of this Bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedures Act, RSA 2000, c. P-34, as amended, to any person who the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

SECTION 10 - ONUS OF PROOF

- 10.1 In the prosecution of an alleged contravention of any of the provisions of this Bylaw, the onus of proof that the actions giving rise to the charge were previously authorized shall lie upon the person charged.

- 10.2 In the prosecution of an alleged contravention of any of the provisions of this Bylaw, the status of the Open Space Area in question shall be established upon oral testimony of the Chief Administrative Officer.

SECTION 11 - INTERPRETATION

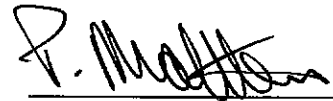
- 11.1 If a court of competent jurisdiction should declare any section or subsection of this Bylaw to be invalid, such section or subsection shall not be construed as having persuaded or influenced Council to pass the remainder of the bylaw, and it is hereby declared that the remainder of the bylaw shall be valid and remain in force.

- 11.2 In the event of a conflict between any of the provisions of this bylaw and the provisions of any other bylaw of the Town, the provisions of this bylaw shall prevail except where governed by provincial statute.

READ a first time this 1st day of June, 2009

READ a second time this 6th day of July, 2009.

READ a third time this 6th day of July, 2009.



Mayor



Chief Administrative Officer

Resolution # _____

SCHEDULE 'A'

Penalties for Violations

<u>Section Offences</u>	<u>Violation</u>	<u>1st Offence</u>	<u>2nd Offence</u>	<u>3rd/Subsequent</u>
4.2	Within an Open Space Area outside of the hours of operation	\$100.00	\$200.00	\$300.00

