

**LAC STE. ANNE COUNTY
PROVINCE OF ALBERTA
BYLAW NO. 20-2021
UNAUTHORIZED USE OF MUNICIPAL LAND AND ROAD ALLOWANCES
BYLAW**

Bylaw No. 21-2021 of Lac Ste. Anne County, In the Province of Alberta, enacted for the purpose of controlling the use of Municipal Land and road allowances within the County.

Whereas, pursuant to s. 7(a) of 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;

And Whereas, pursuant to s. 7(b) of the Act, 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;

And Whereas, pursuant to s. 18 of the Act, a municipality has direction, control and management of all roads within the municipality;

And Whereas, pursuant to s. 13(1)(o) of the *Traffic Safety Act*, R.S.A. 2000, c. T-6, (the "TSA") Council may make a bylaw authorizing the municipality to issue a licence or permit that is terminable on 30 days' notice in writing for the temporary occupation or use of a road allowance or highway or a portion of a road allowance or highway when it is not required for public use;

And Whereas, pursuant to s. 13(1)(d) of the TSA, Council may make a bylaw governing access to highways from private land;

Now Therefore, the Council of Lac Ste. Anne County, duly assembled, hereby enacts as follows:

PART ONE – PURPOSE, DEFINITIONS AND INTERPRETATION

1. Purpose:

The purpose of this Bylaw is to regulate the use of Municipal Lands and access to highways from private land and to authorize the issuance of permits for the temporary occupation or use or access to Municipal Land, including an undeveloped road allowance.

2. Definitions:

"Approach" means the improved area of a public right-of-way, between a municipal road allowance and private property, which is intended and used to provide access for vehicles from the road allowance to an area of the private property;

"CAO" means the Chief Administrative Officer or their designate for the County;

"Council" means the Council for Lac Ste. Anne County, pursuant to the Act;

"County" means Lac Ste. Anne County;

"Designated Officer" means an officer employed by Lac Ste. Anne County and provided with the authority by Council to enforce this Bylaw;

"Municipal Land" means all those lands, which are under the direction, control and management of Lac Ste. Anne County, which includes:

- a. all that portion of a road allowance, developed road, or undeveloped road under the direction, management and control of Lac Ste. Anne County, and

- b. all land designated as municipal reserve, municipal and school reserve, park, public utility lot, or environmental reserve pursuant to the Act;

“Order” means an Order in writing given pursuant to Part Four of this Bylaw;

“Owner” means a Person who controls the property under consideration, holds themselves out as the person having the powers and authority of ownership or who at the relevant time exercises the powers and authority of ownership, and includes:

- a. The Person registered on title at the Land Titles Office;
- b. A Person who is recorded as the owner of the property on the assessment roll of the County;
- c. A Person who has purchased or otherwise acquired the property and has not become the registered owner thereof; and
- d. A Person who is the occupant of the property under a lease, license, permit or other agreement;

“Person” means an individual, a firm, partnership, joint venture, proprietorship, corporation, association, society or any other legal entity;

“Ticket” means a Province of Alberta Violation Ticket related to an offence committed under this Bylaw;

“Unauthorized Use” means the use of land or buildings through the construction, storing, landscaping, erecting, or placing of anything on, in, under, or over Municipal Land without the approval of the County. Examples of unauthorized use include, but are not limited to, the following:

- a. the placement of a driveway, or gate, pipeline, utility on a road allowance, whether developed or undeveloped;
- b. the placement of a gate, parking area, walkway, patio, deck, fence, shed, residence, recreational vehicle, or other vehicle or structure;
- c. landscaping, the cutting, mowing, removal or trimming of any natural or native vegetation, or the planting or seeding of lawn grasses, trees or any non-native vegetation;
- d. the placement of drainage facilities such as pipes, catch basins, ditches, sumps, swales, on-site sewage disposal, detention ponds, and ancillary structures;
- e. the placement or storage of building materials, stockpiles, vehicles, or other chattels in connection with the development of a structure on or off the municipal land; and
- f. digging, cutting, excavating, or filling;

“Utility” means any organization which provides services to the general public, although it may be privately owned. Utilities include but are not limited to electric, gas, telephone, water, television cable, internet providers.

PART TWO - GENERAL

1. No Person shall engage in an Unauthorized Use on Municipal Land.
2. Evidence that a Person is an Owner of land adjacent to Municipal Land on which an Unauthorized Use is occurring is prima facie proof that the Owner is responsible for the Unauthorized Use.

PART THREE - AUTHORIZATIONS

1. The CAO is authorized to adopt and implement any policies, procedures or protocols necessary to regulate the use of and access to Municipal Land.

2. The CAO is authorized to issue a Road Access Permit in accordance with this Bylaw in response to an application by an applicant seeking to install an approaches, pipeline, or utility on or within a municipal road allowance within the County. An applicant may apply for a Road Access Permit by providing the information in a form required by the CAO.
3. The CAO is authorized to impose any conditions or requirements on a Road Access Permit he considers necessary and appropriate.
4. Should an application for a Road Access Permit be refused or the construction or installation of an approach, pipeline or utility on or within a municipal road allowance be deemed incomplete or inadequate by the County in its sole discretion, the applicant and/or Owner shall be responsible for the removal of the approach, pipeline or utility on or within a municipal road allowance and the remediation of the municipal road allowance.
5. The CAO is authorized to issue a Road Allowance Permit in accordance with this Bylaw in response to an application by an applicant seeking to occupy or use for any purpose all or any portion of a road allowance within the County. An applicant may apply for a Road Allowance Permit by providing the information in a form required by the CAO.
6. Every Road Allowance Permit shall be a temporary license authorizing the occupation or use of an undeveloped road allowance and shall include the following terms:
 - a. Shall be terminable by the County at any time on 30 days' notice in writing;
 - b. The applicant shall indemnify and save harmless the County from and against all actions and claims for damage arising from use or occupation of the road allowance, and that the applicant releases the County from any and all liability arising from any bodily injury or property damage arising from such use or occupation;
 - c. May require the applicant at its own cost to erect signage, gates, fencing or other structures to ensure public safety; and
 - d. May contain such other terms and conditions as deemed appropriate by the CAO.
7. A Road Allowance Permit may not be transferred or assigned, in whole or in part, to any person.
8. The issuance of a Road Access Permit or Road Allowance Permit shall not relieve the applicant of any obligation to obtain any required development permit or license for any proposed use, or otherwise relieve the applicant of its obligation to comply with all County Bylaws or other applicable laws.
9. The CAO may revoke any Road Access Permit or Road Allowance Permit issued if:
 - a. The applicant fails to comply with the terms of the Road Access Permit or Road Allowance Permit; or
 - b. The CAO is of the opinion that the Road Access Permit or Road Allowance Permit was given in error or on the basis of false or inaccurate information.
10. Nothing contained in this Bylaw shall prevent the CAO from refusing to issue a Road Access Permit or Road Allowance Permit if, in the opinion of the CAO, issuing a Road Access Permit or Road Allowance Permit is not in the best interest of the County.

PART FOUR – ENFORCEMENT

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 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.
2. When exercising their authority to enter private property for inspection or enforcement under Part 4 Section 1, a Designated Officer shall provide the Owner of the private property with reasonable notice as required by the Act.
3. Any person who contravenes this Bylaw may be issued an Order by a Designated Officer to remedy the contravention in a manner deemed necessary in the circumstance pursuant to the Act.
4. The Order issued by the Designated Officer under Part 4 Section 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 Municipal Lands to a natural state;
 - 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 act or take any measure at the expense of the Person; and
 - e. Notify the Person of the right to appeal the Order to the Enforcement Review Committee.
5. An Owner commits an offence under this Bylaw if that Owner does, or allows to be done, any action as described under Part Two of this Bylaw and is subject to a ticket and a fine pursuant to Section 1 of Schedule "A" for the following Unauthorized Uses:
 - a. the placement of a gate, parking area, walkway, patio, deck, fence, shed, residence, recreational vehicle, or other vehicle or structure;
 - b. landscaping, the cutting, mowing, removal or trimming of any natural or native vegetation, or the planting or seeding of lawn grasses, trees or any non-native vegetation; and
 - c. the placement of drainage facilities such as pipes, catch basins, ditches, sumps, swales, on-site sewage disposal, detention ponds, and ancillary structures;
 - d. the placement or storage of building materials, stockpiles, vehicles, or other chattels in connection with the development of a structure on or off the municipal land;

all other Unauthorized Uses are subject to a ticket and a fine pursuant to Section 2 of Schedule "A"
6. 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 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 Designated 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.

7. An Owner who contravenes this Bylaw may, if the ticket issued in respect of the offence contains a specified penalty amount (Schedule "A"), pay this amount in which case the Owner will not be prosecuted for the contravention.
8. Any specified penalty amount to be included in a Ticket issued in respect of an offence under this Bylaw must in an amount as prescribed in Schedule "A".
9. If the Owner has not complied with the Order by the specified deadline a Designated Officer may do or direct any work to be done to remedy the contravention, including disposing of any materials, and establishing property boundary through the use of an Alberta Land Surveyor, and may charge the Owner for the cost of the work done.
10. If the Owner fails to pay for the work required to be done under Part Four Section 9, the County may
 - a. recover the cost as a debt due to the County, or
 - b. charge the cost against the land as taxes due and recover the cost as taxes.
11. 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 shall be used to pay the expenses and costs of the removal and any excess revenue generated in accordance with an enforcement action will be returned to the Owner in accordance with the regulations set out within the Act.
12. The expenses and costs incurred by the County on the enforcement of this Bylaw may be collected as a civil debt.

PART FIVE - APPEALS

1. Any Person who believes that a Ticket or Order unfairly affects them may appeal to the Enforcement Review Committee in accordance to the terms and conditions established within the Enforcement Review Committee Bylaw within 14 days of the service of the Order or Violation Ticket.
3. Any Owner or Person who believe that a permit approval or permit refusal affects them unfairly may appeal the permit decision to the CAO.

PART SIX - GENERAL

1. That Bylaw No. 11-2003 be hereby rescinded.

READ a first time this 6th day of May.



Reeve




CAO

READ a second time this 2nd day of June.



Reeve



CAO

READ a third time this 2nd day of June .



Reeve



CAO

SCHEDULE "A"
Unauthorized Use of Municipal Land Bylaw

The following fines have been established by the Council for Lac Ste. Anne County and may be used in the issuance of a Province of Alberta Violation Ticket as part of the Unauthorized Use of Municipal Land Bylaw

Section One:

1. A fine not to exceed Two Hundred Fifty Dollars (\$250.00) for a first offence.
2. A fine not to exceed Five Hundred Dollars (\$500.00) for a second offence.
3. A fine not exceeding One Thousand Five Hundred Dollars (\$1,500.00) a day for ongoing offences.

Section Two:

4. An Owner contravenes this Bylaw with an offence as defined under Section (2)(a) and (f) of this Bylaw may upon conviction be liable for a penalty not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for a first Offence and Five Thousand Dollars (\$5,000.00) for second or subsequent offence, and Nine Thousand Dollars (\$9,000.00) a day for ongoing offences.

Section Three:

A Violation Ticket for a second or subsequent offence are to be issued at the discretion of the Designated Officer.