

## CITY OF EDMONTON

### BYLAW 12308

#### UNAUTHORIZED USE OF PARKLAND

**Whereas**, pursuant to section 7(b) of the *Municipal Government 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;

Edmonton City Council enacts:

#### PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

- PURPOSE** 1 The purpose of this bylaw is to regulate the Unauthorized Use of Parkland and to provide the City with a mechanism for removing such Unauthorized Uses.
- DEFINITIONS** 2 In this bylaw, unless the context otherwise requires:
- (a) **“City”** means the City of Edmonton;
  - (b) **“City Manager”** means the chief administrative officer of the City;
  - (c) **“Direction”** means a direction in writing given pursuant to section 5;
  - (d) **“Fine Option Program”** means a program established by the Province of Alberta for the purpose of allowing an individual to discharge a fine in whole or in part by earning credits for performing work;
  - (e) **“Owner”** means any person who is registered under the *Alberta Land Titles Act* as an owner of the fee simple estate in land;
  - (f) **“Parkland”** means land, whether developed or not, owned by the City and:
    - (i) having a district designation of AP (Public Parks District) or A (Metropolitan Recreation District)

- pursuant to a land use bylaw passed by the City pursuant to the Alberta *Municipal Government Act*;
- (ii) contained in the North Saskatchewan River Valley and Ravine System Protection Overlay as described in a land use bylaw passed by the City pursuant to the Alberta *Municipal Government Act*.
  - (iii) designated as municipal reserve, environmental reserve, or a public utility lot pursuant to the Alberta *Municipal Government Act*; or
  - (iv) being that portion of any Road contiguous with, partially within, or fully within any land described in section 2(f)(i), (ii) or (iii).
- (g) **“Road”** means land shown as a road, or a road right of way, on a plan of survey that has been filed or registered in a land titles office.
- (h) **“Unauthorized Use”** means the exercise of dominion or control over Parkland by constructing, storing, erecting, or placing anything on Parkland or by maintaining or altering such Parkland where not required or allowed by the City Manager. Examples of such dominion or control include, but are not limited to, the following:
- (i) a driveway, parking pad or site, stairway, walkway, pool, patio, deck, wall, fence, shed or other structure;
  - (ii) landscaping, gardens and irrigation or electrical systems;
  - (iii) drainage facilities including but not limited to pipes, catch basins, sumps, swales, detention ponds and ancillary structures;
  - (iv) staging, scaffolding or other structure, material, machinery or tools used or to be used in connection with the erection, alteration, demolition, repair or painting of any structure; and
  - (v) digging, cutting, excavating or filling.
- (i) **“Violation Ticket”** means an Offense Ticket as defined in the City of Edmonton Penalties Bylaw or a Violation

Ticket as defined in the Alberta *Provincial Offences Procedure Act*.

**RULES FOR INTERPRETATION**

- 3 The marginal notes and headings in this bylaw are for reference purposes only.

**PART II - REGULATION OF UNAUTHORIZED USE**

- 4 No person shall make Unauthorized Use of Parkland.
- 5 The City Manager may, by Direction, require a person responsible for an Unauthorized Use of Parkland to remedy such Unauthorized Use. A Direction must:
- (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 Parkland to a natural state; and
  - (c) state a time, not less than 7 days from the date of service, within which the person must comply with the Direction.
- 6 A Direction must be served:
- (a) personally, if directed to an individual;
  - (b) in accordance with the Alberta *Business Corporations Act*, if directed to a corporation; or
  - (c) in accordance with an order of the Court of Queen's Bench of Alberta.
- 7 No person shall fail to comply with a Direction.
- 8 A person who contravenes section 4 or section 7 is guilty of an offence.

**PART III - ENFORCEMENT**

- 9 Evidence that a person is an Owner of land contiguous to Parkland

on which there is an Unauthorized Use is prima facie proof that the Owner is responsible for the Unauthorized Use.

- 10 Evidence of an Unauthorized Use is prima facie proof that the Unauthorized Use is not required or allowed by the City Manager.
- 11 A person who contravenes this bylaw may, if the Violation Ticket issued in respect of the offence contains a specified penalty amount, pay this amount in which case the person will not be prosecuted for the contravention.
- 12 Any specified penalty amount to be included in a Violation Ticket issued in respect of an offence under this bylaw must be in an amount as specified in Schedule A.
- 13 A person who is found guilty of an offence under this bylaw is liable to a fine in an amount not less than that specified in Schedule A and not exceeding \$10,000.00.
- 14 In addition to any fine imposed, the court must provide for imprisonment of not less than 6 days and not more than one year for non-payment of a fine.
- 15 Section 13 does not apply if a court is satisfied that the guilty person is unable to pay the fine, or discharge it pursuant to a Fine Option Program.
- 16 If a person is found guilty of an offence under this bylaw, the court may, in addition to any other penalty imposed, order the person to comply with this bylaw.

#### **PART IV - GENERAL**

- 17 The City Manager may carry out whatever inspections are reasonably required to determine compliance with this bylaw.
- 18 A copy of a record of the City, certified by the City Manager as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.
- 19 The City Manager may delegate any of his powers, duties or

functions under this bylaw to an employee of the City.

20 This bylaw comes into force on April 1, 2001.

**SCHEDULE A****OFFENCES AND FINES**

<b><u>OFFENCE</u></b>	<b><u>SECTION</u></b>	<b><u>FINE</u></b>
Unauthorized Use of Parkland	4	\$250.00
Fail to Comply With a Direction 7		\$250.00