

COUNTY OF ST. PAUL NO. 19

BY-LAW NO. 1364

A By-law of the County of St. Paul No. 19 in the Province of Alberta, being a bylaw of the County of St. Paul in the province of Alberta for the purpose of regulating use of railway right-of-ways.

WHEREAS s. 7 of the Municipal Government Act (Alberta), as amended, provides that a Municipality may pass bylaws respecting people, activities and things on or near a public place within the Municipality;

NOW THEREFORE the Council of the County of St. Paul, in the Province of Alberta, duly assembled, enacts:

CITATION

1. This Bylaw may be cited as the St. Paul "Railway Right-of-Way Regulation Bylaw".

DEFINITIONS

2. (a) "Chief Administrative Officer" shall mean the individual who holds that position for the County at any given time and includes any person authorized to act for and in the name of that individual
 - (b) "Council" means the Council of the County of St. Paul in the Province of Alberta.
 - (c) "County" means the County of St. Paul in the Province of Alberta.
 - (d) "Railway Right-of-Way" shall mean any abandoned or former Railway Right-of-Way owned by the County or under the joint care and control of the County.
 - (e) "Usage Control Device" shall mean any sign, signal, marking or device placed, marked or erected under the authority of this Bylaw for the purpose of regulating, warning or prohibiting use of the Railway Right-of-Way..
 - (f) "Trailer" means any device that is attached to or drawn by a Vehicle and includes machinery or equipment used in construction or farming.
 - (g) "Vehicle" means a vehicle that is drawn, propelled or driven by any means other than muscular power.
3. Words importing the masculine gender only, include the feminine gender whenever the context so requires and vice versa.
 4. Words importing the singular shall include the plural or vice versa whenever the context so requires.

REGULATION OF USE

5. Except as otherwise set out in this Bylaw Council hereby delegates to the Chief Administrative Officer the authority to regulate and control the use of all Railway Right-of-Ways as defined in this Bylaw.
6. Unless required or permitted by this Bylaw or by a Usage Control Device, or in compliance with the directions of a Peace Officer, or to avoid conflict with other traffic, an operator or owner shall not stop, park or operate his Vehicle, or permit his Vehicle to be stopped, parked or operated, on a Railway Right-of-Way.
7. Unless required or permitted by this Bylaw or by a Usage Control Device an owner shall not park or leave his Trailer on a Railway Right-of-Way.
8.
 - (a) The Chief Administrative Officer is hereby delegated the authority to prescribe where Usage Control Devices, either permanent or temporary, are to be located. The Chief Administrative Officer shall cause such devices to be placed such that they are clearly recognizable in all reasonable light and weather conditions.
 - (b) Usage Control Devices authorized by the Chief Administrative Officer, as delegated pursuant to S. 7(a) hereof, shall be deemed to have been made by bylaw of the County and such person is to maintain a record of all such locations which shall be open to public inspection during normal business hours.
9.
 - (a) No person shall make or place an obstruction of any kind in, upon or above a Railway Right-of-Way or place any building or structure of any nature in a manner that encroaches upon any portion of a Railway Right-of-Way unless permission has been granted by the Chief Administrative Officer and upon such terms and conditions as he deems necessary;
 - (b) Every person who fails to obtain permission or comply with the conditions attached thereto shall be guilty of an offence and shall, in addition to any other penalty, cause the removal of the obstruction or encroachment within 24 hours after being notified to do so by the Chief Administrative Officer. After the expiration of the said 24 hours, the Chief Administrative Officer may cause the removal of the obstruction or encroachment and such removal shall be at the expense of the person causing, placing or permitting the obstruction or encroachment on the Railway Right-of-Way;
 - (c) Where an obstruction or encroachment of any kind exists in, upon, or above any Railway Right-of-Way and, in the opinion of the Chief Administrative Officer it creates an unsafe condition, the Chief Administrative Officer shall be entitled to take such measures as are required for the protection of life or property.

POWERS OF PEACE OFFICERS AND BYLAW ENFORCEMENT OFFICERS

10.
 - (a) Any Peace Officer or Bylaw Enforcement Officer is hereby authorized to remove or cause to be removed any Vehicle or Trailer parked or left at a stand still in contravention of this Bylaw.
 - (b) Any such Vehicle or Trailer may be removed to a place designated by the Chief Administrative Officer where it will remain impounded until claimed by the owner thereof or his authorized agent.

- (c) The owner or his authorized agent, of any Vehicle or Trailer removed because of a contravention of this Bylaw, shall pay to the Chief Administrative Officer all storage and/or removal charges. Such charges shall be in addition to any fine or penalty imposed in respect of any such contravention.
- (d) In the event that an owner of a motor Vehicle does not claim such Vehicle, the storage and removal charges may be collected pursuant to the provisions of the Motor Vehicle Administration Act (Alberta) as amended.
- (e) In the event that an owner of any other Vehicle or Trailer does not claim such Vehicle or Trailer, the storage and removal charges may be collected pursuant to the provisions of the Municipal Government Act (Alberta), as amended.

EXCEPTIONS

11. The prohibitions contained in ss. 8 and 9 of this Bylaw do not apply to:
- (a) emergency vehicles including police services, ambulance services or fire department;
 - (b) vehicles used in conjunction with the servicing of public utilities including telephone systems, electric systems, natural gas systems and cable vision systems;
 - (c) municipal and other government public works vehicles;
 - (d) towing service vehicles;
 - (e) owners of land adjacent to a Railway Right-of-Way to whom a permit has been issued by the County; or
 - (f) any other individual to whom a permit is issued by the County.

PERMITS

12. (a) To obtain a permit pursuant to ss. 11(e) and (f) of this Bylaw, an application must be made to the Chief Administrative Officer;
- (b) The Chief Administrative Officer may refuse to grant the permit or may grant the permit with such terms and conditions as he deems necessary;
 - (c) The Chief Administrative Officer may grant the permit for a specified date or may allow a permit of indefinite duration;
 - (d) Any applicant requesting a permit under subsection (a) hereof shall make an application in writing to the Chief Administrative Officer providing the following information:
 - (i) the description and registration information for the Vehicle or Trailer to be parked or operated on the Right-of-Way;
 - (ii) the location of the Railway Right-of-Way the applicant wishes to access;
 - (iii) the date on which the applicant proposes to access the Right-of-Way unless the applicant is requesting a permit of indefinite duration;

- (iv) the purpose for which access to the Right-of-Way is requested; and
 - (v) such other information as may be required.
- 13. Coincident with issuance of the permit, the applicant shall enter into an agreement to indemnify the County for any and all damages caused to the Railway Right-of-Way or any works made or done over, upon or under the same, as a result of the use of the Railway Right-of-Way pursuant to a permit.
- 14. The Chief Administrative Officer may in writing alter, suspend or revoke a permit whenever it is determined that:
 - (a) the permit was issued in error;
 - (b) the permit was issued based on incorrect information supplied;
 - (c) the area indicated on the permit is required by the County for other purposes; or
 - (d) the permit is in violation of any County bylaw or resolution.
- 15. Upon request by an applicant or permit holder and when it is determined by the Chief Administrative Officer that extenuating circumstances exist, the Chief Administrative Officer is hereby authorized to waive or alter any term of an agreement or permit required by this Bylaw.

PROSECUTIONS

- 16. Any person who contravenes any provision of this Bylaw is guilty of an offence.
- 17. Persons contravening any section of this Bylaw are liable to a penalty in the amount of:
 - (a) One Thousand (\$1000.00) Dollars for a first offence; and
 - (b) a minimum of Two Thousand (\$2000.00) Dollars for a second or subsequent offence.
- 18. A notice of form commonly called an offence ticket, having printed wording approved by the Chief Administrative Officer, may be issued by a Peace Officer or a Bylaw Enforcement Officer to any person alleged to have breached any provision of this Bylaw, and the said notice shall require the payment to such official in the amount specified in this Bylaw or the regulations pursuant to the Provincial Offences Procedure Act, (Alberta), as amended.
- 19. When a person is served with an offence ticket pursuant to s. 19 of this Bylaw and the recipient of the offence ticket voluntarily delivers payment to the Chief Administrative Office within fourteen (14) days of the date the offence ticket is issued, the specified penalty shall be reduced by ten (10%) percent.
- 20. An offence ticket shall be deemed to be sufficiently served:
 - (a) if served personally on the accused;
 - (b) if mailed to the address of the registered owner of the Vehicle or Trailer concerned, or to the person concerned; or
 - (c) if attached to or left securely and visibly upon the Vehicle or Trailer in respect of which the offence is alleged to have been committed.

TRANSITION SECTION

21. All Usage Control Devices which are in place on the effective date of this Bylaw shall be deemed to be valid Usage Control Devices for the purposes of this Bylaw until removed.

This Bylaw comes into effect on the date of final passing.

READ a first time this ____ day of _____, A.D. 2001;

READ a second time this ____ day of _____, A.D. 2001;

READ a third time this ____ day of _____, A.D. 2001.

Reeve

County Administrator