

SUMMER VILLAGE OF BIRCHCLIFF USE OF RESERVES, PARKS AND PATHWAYS BY-LAW 249-23

WHEREAS the Municipal Government Act being Chapter M-26 of the Revised Statutes of Alberta, 2000, Part 2, Section 7 and 8 and amendments thereto, authorizes the Council of a municipality to pass bylaws pertaining to the protection of people, property, and transportation systems, and

WHEREAS within the corporate limits of the Summer Village of Birchcliff there are reserves, public parks, and pathways under the ownership, control, and management of the Summer Village of Birchcliff, and

WHEREAS it is deemed desirable and expedient to provide for the control and use of these reserves, parks, and pathways, and

WHEREAS the Alberta Traffic Safety Act, and amendments thereto, authorizes the Council of a municipality, with respect to highways under its direction, to control, manage and pass bylaws authorizing persons to operate vehicles on any portion of such highways, and

WHEREAS the Council of the Summer Village of Birchcliff considers it desirable and expedient to do so.

NOW THEREFORE the Council of the Summer Village of Birchcliff, in the Province of Alberta, duly assembled, enacts as follows:

TITLE

1. This Bylaw may be referred to as the “Use of Reserves, Parks and Pathways Bylaw”

PURPOSE

2. The Summer Village of Birchcliff wishes to preserve the integrity of its Municipal Reserves, parks, and pathways for the future. The purpose of this bylaw is as follows:
 - (a) To set forth the objectives of the Village Municipal Reserves, Parks, and Pathways
 - (b) To set forth restrictions on Village Municipal Reserves, Parks, and Pathways
 - (c) To outline action which may be taken in cases of contravention of the Municipal Reserve, Parks, and Pathways bylaw

DEFINITIONS

3. In this Bylaw, words have the meanings set out in the Act, except that:
 - (a) **“Act”** means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended.
 - (b) **“All-Terrain Vehicle”** includes a motorized recreational vehicle commonly known as a quad or side by side and is included in the term “off highway

vehicle”.

(c) **“Chief Administrative Officer”** or **“CAO”** means the Chief Administrative Officer of the Summer Village or the Chief Administrative Officer’s delegate;

(d) **“Council”** means the Council of the Summer Village of Birchcliff.

(e) **“Environmental Reserve”** or **“ER”** means:

- i. a parcel of land designated as an environmental reserve under the Act;
- ii. or an environmental reserve easement as defined under the Act; or
- iii. any Summer Village owned land which has a reserve designation on the certificate of title for the land pursuant to a former enactment (for example, R- Reserve) and which bears the traits of an environmental reserve as defined in the Act.

(f) **“Firearms”** means any weapon from which any shot, bullet or other projectile capable of causing bodily injury or death can be discharged and includes air guns, air rifles, air pistols, B.B. guns, sling shots, all types of archery equipment, and gas-powered guns.

(g) **“Highway”** means a highway as defined in the Alberta Traffic Safety Act, and amendments thereto and excludes pathways defined in h) below. In this Bylaw the term “road” is synonymous with the term “highway”.

(h) **“Off-highway Vehicle”** means an off-highway vehicle as defined in the Alberta Traffic Safety Act.

(i) **“Operator”** means a person who drives or is in actual physical control of any vehicle.

(j) **“Owner”** includes a person renting any vehicle or having exclusive use of that vehicle for a period of more than thirty days.

(k) **“Pathway”** means any paved, graveled, or natural walkway used by pedestrians and people using mobility aids, such as wheelchairs, and people using bicycles within the Summer Village.

(l) **“Peace Officer”** means a member of the Royal Canadian Mounted Police, a Peace Officer, or a Bylaw Enforcement Officer.

(m) **“Person”** means any person, individual, owner, public body, society, firm, or partnership.

- (n) **“Reserve”** means any area designated as a public reserve, environmental reserve, community reserve, or park, title to which is vested in the Summer Village of Birchcliff.
- (o) **“Snow Vehicle”** includes a recreational vehicle with motor, skis and tracks commonly known as a snowmobile or skidoo and is included in the term “off-highway vehicle”.
- (p) **“Structure”** means buildings, sheds, fences, tree houses, swings, and similar installations.
- (q) **“Summer Village”** means the Summer Village of Birchcliff.
- (r) **“Trailer”** means a vehicle so designated that it may be attached to or drawn by a motor vehicle and intended to transport property or persons and includes any trailer that is designed, constructed, and equipped as a dwelling, sleeping, or living place.
- (s) **“Vehicle”** means a motor vehicle as defined in the Alberta Traffic Safety Act.

RESERVES, PARKS, AND PATHWAYS – GOALS

- 4. The Summer Village of Birchcliff is fortunate to have a rich resource in open space areas. These areas are largely undeveloped and enhance the rural setting of the Village. The open space goals as listed in the Municipal Development Plan and Open Space Plan are:
 - (a) To establish and implement policies for the dedication and use of municipal reserves, environmental reserves, and other spaces
 - (b) To conserve, wherever possible, areas having natural attributes, so they remain an integral part of the community fabric
 - (c) To encourage the provision of areas for passive recreation opportunities and pathway linkages
 - (d) To provide a network of open spaces which contribute to the character of the community
 - (e) To connect open spaces by a series of trails and pathways
 - (f) To provide access into open space appropriate to the intended use of the open space
 - (g) To conserve areas which are fragile or more susceptible to impairment from inappropriate use or magnitude of use

- (h) To provide amenities which promote and serve healthy leisure time activities

RESERVES, PARKS, AND PATHWAYS - RESTRICTIONS

5. On Village Reserves no person or persons shall:

- (a) Light a fire;
- (b) Abandon any garbage or refuse of any kind including animal droppings;
- (c) Cause or permit any noise that annoys or disturbs the peace of any other person, or cause any nuisance, as listed in Birchcliff's Community Standards Bylaw;
- (d) Be in possession of a firearm or other weapon;
- (e) Use a Reserve to launch trailered watercraft;
- (f) Use motorized vehicles or ATV's except for specific authorized tasks. Off-highway vehicle use is permitted along the RA15 right-of-way;
- (g) Cut or remove vegetation without Village approval;
- (h) Store any private property of any kind on Reserve land, ~~with exceptions where allowed through access and encroachment agreements.~~ Any private property found on Reserve land will result in the removal of the property at the owner's expense.

6. **Notwithstanding Section 5(h), an Environmental Reserve may be used for the following purposes if authorized by Council:**

- (a) **construction of stairways to directly connect private property to the shores of Sylvan Lake; PROVIDED THAT:**
 - (i) **the owner of the private property has entered into and complies with the Summer Village's form of Encroachment Agreement, the terms and conditions of which shall include, without limitation:**
 - A. **that the owner must, at its sole cost, construct and maintain stairways in accordance with Summer Village policies, as established by the Summer Village from time; and**
 - B. **that the owner must pay all applicable fees imposed by the Summer Village; and**

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- (b) the temporary storage of dock pieces only (no boat lifts or hoists); PROVIDED THAT:
 - (i) the owner of the private property has entered into and complies with the Summer Village's form of Encroachment Agreement, the terms and conditions of which shall include, without limitation:
 - A. that the owner must, at its sole cost, store and maintain the dock pieces in accordance with Summer Village policies, as established by the Summer Village from time; and
 - B. that the owner must pay all applicable fees imposed by the Summer Village.
 - 7. No Encroachment Agreement shall grant the exclusive right to use or occupy any portion of Environmental Reserve.
 - 8. Except where permitted by this Bylaw, all encroachments on Environmental Reserve are prohibited, regardless of whether or not such encroachment predates this Bylaw coming into force. All existing encroachments shall be brought into compliance in accordance with this Bylaw.
 - 9. Landowners with existing encroachments on Environmental Reserve shall, within one year of this Bylaw coming into force, either remove unauthorized encroachments and restore the Environmental Reserve or request a new authorization from the Summer Village.
 - 10. All authorizations and agreements required under this Bylaw with respect to encroachments on Environmental Reserve shall be approved by Council, or its delegate, upon payment of applicable fees, if any
 - 11. All expenses, cost, liabilities, or other risks associated with bringing an unauthorized encroachment into compliance with this Bylaw shall be the responsibility of the landowner.
 - 12. All expenses, cost, liabilities, or other risk associated with an encroachment over Reserves shall be the responsibility of the landowner;
 - 13. The provisions of this Bylaw do not apply to actions and operations of the Summer Village or persons acting upon the instructions of the Summer Village in respect to any activities within Environmental Reserve.
 - 15. No vehicles, off-highway vehicles or trailers are allowed in any reserve or park at any time except for the following:
 - (a) Vehicles, off-highway vehicles, or trailers owned by utility companies who require access to their installations for construction, repair, or maintenance
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purposes,

- (b) Any vehicle, off-highway vehicle or trailer authorized by Council, or the Administrator of the Summer Village, may enter any of the parks or reserves for the construction, repair, or maintenance of any structures or for any community event approved by Council,
- (c) Any emergency vehicle such as those used by Police, fire departments or ambulance services,
- (d) Snow vehicles and all-terrain vehicles used for winter recreational purposes as per Bylaw 230-21 - Off Highway Vehicles.

In addition:

- (e) Operators of all vehicles and off-highway vehicles shall be responsible for all damage incurred by operation of their vehicles in any reserve or park.
- (f) Off-highway vehicles shall be fitted with a forestry approved spark arrester and muffler that meets OEM noise reduction specifications.

LIABILITIES

- 16. The Summer Village of Birchcliff assumes no liability for any equipment, or its use by the Owner or the Public.

SEVERABILITY

- 17. Should any section or part of the Bylaw be found to have been improperly enacted, then such section or part shall be regarded as being severable from the rest of this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

CONTRAVENTIONS

- 18. A Designated Officer authorized to enforce this Bylaw under Part 13, Division 4 of the Municipal Government Act, R.S.A. 2000, Chapter M-26, and who has reasonable and probable grounds to believe that a person has contravened any section of this Bylaw, may under the authority of this Bylaw issue a written order, and where this written order is not paid by the offender, a Part 2 violation ticket may be issued under the Provincial Offences Procedures Act R.S.A 2000, Chapter P-34, to that person.
- 19. Any person who contravenes this section can be charged as well as assessed the cost of restoration. Any person who contravenes the provisions of this Bylaw shall be guilty of an offense and liable on summary conviction to the penalty as set out in Schedule "A".

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20. In some situations, both the Summer Village and the Provincial Government may be involved and occasionally the Federal Government. As a result, penalties can be severe.

21. The Summer Village may use physical barriers to control abuse or encroachment rather than involve penalties.

Upon 3rd reading, Bylaw #229-21 is hereby rescinded.

READ a first time this 21st day of September 2023.

Roger Dufresne, Mayor

Tanner Evans, C.A.O.

PUBLIC HEARING held October 12th, 2023.

READ a second time this 12th day of October 2023.

READ a third and final time this 12th day of October 2023.

Roger Dufresne, Mayor

Tanner Evans, C.A.O.

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<u>SECTION</u>	<u>PARTICULARS</u>	<u>PENALTY</u>
Section 5 (a)	Light a fire	\$250.00 To \$2,500.00
(b)	Abandon any garbage or refuse of any kind, including animal droppings	\$250.00
(c)	Interfere with wildlife	\$100.00
(d)	Be in possession of a firearm or other weapon	\$250.00 to \$2500.00
(e)	Use a Reserve to launch trailered watercraft	\$100.00
(f)	Use motorized vehicles or ATV's except for specific authorized tasks	\$250.00
(g)	Cut or remove vegetation without village approval	\$500.00 To \$5,000.00 + cost to replant
(h)	Store any private property of any kind on Reserve land	\$100.00 + cost of removal