

THE CITY OF SPRUCE GROVE

BYLAW C-1061-18

OPEN SPACE AREA BYLAW

WHEREAS, pursuant to the *Municipal Government Act*, RSA 2000, cM-26, and amendments thereto, a council may pass bylaws respecting all matters pertaining to people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS, Council wishes to pass a bylaw to regulate and control the use and operation of Open Space Areas within the City of Spruce Grove;

NOW THEREFORE, the Council for the City of Spruce Grove, duly assembled hereby enacts as follows:

1. BYLAW TITLE

1.1 This bylaw is called the “Open Space Area Bylaw”.

2. DEFINITIONS

2.1 “Activity” means the actions or behaviours of a Person in an Open Space Area. These actions or behaviours may be planned and organized or spontaneous in nature and refers to anything taking place in an Open Space Area.

2.2 “Athletic Facility” means an outdoor playing surface or structure owned or operated by the City, and made available to the public by a formal agreement, Open Space Permit, or drop in spontaneous use. This may include, but is not limited to:

- (a) cycling facilities;
- (b) Skate parks;
- (c) courts used for volleyball, tennis, basketball, pickleball;
- (d) fields used for soccer, football, baseball, rugby, disk sports, track and field, cricket, lacrosse; and
- (e) outdoor rinks, boarded and leisure ice surfaces.

- 2.3 “Bicycle” means any cycle propelled by human muscular power on which a Person may ride regardless of the number of wheels that the cycle may have.
- 2.4 “Business Activity” means any Activity where the primary purpose is making a profit.
- 2.5 “City” means the municipal corporation of the City of Spruce Grove in the Province of Alberta.
- 2.6 “City Manager” means the administrative head of the City of Spruce Grove.
- 2.7 “Council” means the municipal Council of the City elected pursuant to the *Local Authorities Election Act*, RSA 2000 cL-21.
- 2.8 “Development” means any building, improvement, structure, vegetation or equipment constructed, planted or placed on, in, over or under land.
- 2.9 “Education Authority” means the Parkland School Division No. 70 and/or the Evergreen Catholic Separate Regional Division No.2.
- 2.10 “Event” means any organized Activity being held in an Open Space Area that has the potential to impact or displace spontaneous use. This may include, but is not limited to runs, walks, bikes or motorized rides, festivals, fairs, Parades, Processions and Special Events, information or awareness sessions, commemorative services, games, leisure activities, sport tournaments, public or farmers markets. An Event may be organized by the City or by a group or individual.
- 2.11 “Explosive” means any device or material able to or likely to shatter violently, burst apart or react violently in a chemical nature including incendiary devices and firecrackers.
- 2.12 “Firearms” means any firearm or imitation firearm, including but not limited to air guns, airsoft guns, sling shots, bows, crossbows, or catapults.
- 2.13 “Fireworks” means a combustible or Explosive used for producing a striking display of light and/or a loud noise, and is often, but not always used as a celebration. This also includes any pyrotechnic displays.
- 2.14 “Household Refuse” means any domestic garbage, waste, material, or any other substance needing to be disposed of that originated from a residence or business.
- 2.15 “Loiter” means to stand or wait around idly or without apparent reasonable purpose, or in a manner that impedes or interferes with the enjoyment of an Open Space Area by others.

- 2.16 "Mobility Aid" means a device used to facilitate the transport, in a normal seated orientation, of a Person with a physical disability.
- 2.17 "Municipal Ticket" means a tag or similar document issued by the City pursuant to the *Municipal Government Act*, RSA 2000, cM-26, as amended, for the purposes of notifying a Person that an offence has been committed for which a prosecution may follow.
- 2.18 "Natural Area" means City owned or managed land that is either left in its naturally occurring state or is landscaped and maintained in a manner that attempts to return it to, or emulate, a naturally occurring state for reasons due to aesthetic, environmental, economic or practical considerations.
- 2.19 "Open Space Area" means any of the following:
- (a) any land in the City which is owned, developed, used, leased, controlled or managed by the City as a public park, Athletic Facility, Natural Area, playground or recreational area, including, without restricting the generality of the foregoing, all lands in the City which are jointly controlled or managed by the City and an Education Authority for any of the purposes previously described;
 - (b) any reserve land acquired by the City through the subdivision process or otherwise;
 - (c) any land used as a highway buffer strip, whether on a permanent or temporary basis;
 - (d) any land designated by resolution of Council as an Open Space Area for the purposes of this bylaw;
 - (e) any land developed by the City as part of a Pathway system;
 - (f) any land developed by the City as a part of its storm water drainage system, including, but not limited to, Storm Water Management Facilities, naturalized ponds, bio swales, ditches, and drainage channels;
 - (g) any land owned, developed, used, leased or managed by the City as an off-leash dog park;
 - (h) all exterior areas including lawns, plazas, landscaped areas and parking areas of all City owned or operated facilities that are made available for the public to use for a recreational or social purpose; and

- (i) any Public Utility Lot.
- 2.20 “Open Space Permit” means the written permission, in a form approved by the City Manager, to undertake an Activity on an Open Space Area that is otherwise regulated, restricted or prohibited by this bylaw. This would include rental contracts, lease agreements, licenses, written permission, Event approvals or any other form of permission required.
- 2.21 “Parade, Procession or Special Event” means any gathering or march in an Open Space Area organized for the purpose of entertainment of spectators, display, inspection, or for the promotion of a cause or a purpose, which has the potential to block, obstruct, impede, hinder or interfere with the free flow of other Persons in the Open Space Area.
- 2.22 “Pathway” means any constructed and maintained multiple-use trail.
- 2.23 “Pathway User” means any Person travelling on a Pathway and shall include, but is not limited to Persons walking or jogging, or Persons using Mobility Aids, Bicycles, Power Bicycle, Scooters, Roller Blades, Skateboards, Sleds, Toboggans, Skis or Similar Device.
- 2.24 “Peace Officer” means a member of the Royal Canadian Mounted Police, a Peace Officer appointed under the *Peace Officer Act*, SA 2006 cP-3.5, as amended, or a bylaw enforcement officer appointed under the *Municipal Government Act*, RSA 2000, cM-26, as amended.
- 2.25 “Permit Holder” means the Person that has applied for and received an Open Space Permit and/or is responsible for the Activity associated with the Open Space Permit.
- 2.26 “Person” means any individual, corporation, society, association, partnership, firm or other legal entity.
- 2.27 “Power Bicycle” means a power-assisted bicycle under the Motor Vehicle Safety Regulations (Canada) (C.R.C., c. 1038)
- 2.28 “Public Utility Lot” means land that is used to provide public utilities and is made available for public access.
- 2.29 “Second and Subsequent Offence” means a continuation or contravention of the same offence for each day the said offence is committed, or in the case of a specified time period, the time period equal to the original posted allowed time.

- 2.30 “Sign” means a poster, device, structure or fixture intended for advertising or calling attention to any Person, matter, object or event.
- 2.31 “Skate” means skateboarding, inline skating, ice skating or roller skating.
- 2.32 “Stormwater” means surface runoff such as rainwater and melted snow and ice and uncontaminated water when discharged to the storm sewer system from foundation, roof and underground drains, weeping tile, and groundwater.
- 2.33 “Stormwater Management Facility” means any storm sewer, ditch, culvert, catch basin, manhole, channel, inlet, outfall, main, pond, or depression created to divert or collect and manage Stormwater quantity and/or quality on public or private property.
- 2.34 “Vegetation” means all trees, shrubs, plants, flowers and grasses, and all ground cover, in any Open Space Area.
- 2.35 “Violation Ticket” means a ticket issued pursuant to Part II or Part III of the *Provincial Offences Procedure Act*, RSA 2000, cP-34, as amended.

3. APPLICATION

- 3.1 This bylaw shall apply to all Open Space Areas within the City of Spruce Grove, subject however, to the exceptions provided in any statute of the Province of Alberta or any agreement entered into by the City affecting any Open Space Area or part thereof.

4. PUBLIC ACCESS

- 4.1 Open Space Areas are provided by the City and in some cases are made available for the use, enjoyment and benefit of all Persons under the general conditions contained within this bylaw.
- 4.2 The City Manager may establish hours of operation for Open Space Areas.
- 4.3 The City Manager may temporarily close an Open Space Area or any part thereof to public use.

5. AUTHORITY

- 5.1 The City Manager shall have general supervision, and charge and control of the management, operations and Developments within all Open Space Areas in accordance with policies adopted by Council.

- 5.2 The City Manager has the authority at any time to develop rules and regulations that affect Activities in Open Space Areas. These may include closures or permission for Events and Activities.
- 5.3 The City Manager, a Peace Officer, or any other Person authorized by Council to enforce this bylaw, may remove or have removed from an Open Space Area any Person that violates any provision of this bylaw.

6. OPEN SPACE PERMITS

- 6.1 Persons may carry out any Activity, including a Business Activity in an Open Space Area otherwise restricted or prohibited by this bylaw provided that:
- (a) an Open Space Permit has been issued and payment, if required, is received by the City for such an Activity;
 - (b) the Permit Holder conforms to the terms and conditions as described in their Open Space Permit;
 - (c) the Activity is confined to the area designated by the City for such Activity;
 - (d) the Permit Holder acquires any other permits or approvals required to conduct the Activity in advance of the Activity; and
 - (e) the Open Space Permit is available for inspection at the request of a Peace Officer during the Activity allowed under said Open Space Permit;
 - (f) the Permit Holder does not contravene any term or condition contained in an Open Space Permit issued as per this bylaw.
- 6.2 A Person shall not make any false or misleading statement or provide any false or misleading information to obtain a Permit pursuant to this bylaw.
- 6.3 When considering any request for an Open Space Permit or permission to carry out any Activity in an Open Space Area, the City Manager shall have regard to:
- (a) the protection and preservation of Open Space Areas including any Developments;
 - (b) the health, safety and well-being of Persons in the Open Space Areas;

- (c) the peaceful enjoyment of Open Space Areas by members of the public; and
- (d) any other factors they deem relevant or in the best interests of the City,

and may in the City Manger's sole discretion refuse to issue an Open Space Permit, or issue an Open Space Permit with or without conditions, provided that the City Manager does not deny or refuse a request solely on the basis of the content of any speech, written materials or other expressive Activity being proposed, as long as that expression complies with all applicable laws.

7. ADMISSIONS

- 7.1 No Person shall enter any part of an Open Space Area to which access is prohibited by either Sign or by notice provided on the City webpage or City media site.
- 7.2 No Person shall charge for services, entry, Activity or programs or for admission to an Open Space Area unless they have an Open Space Permit, and then only in accordance with the Open Space Permit.
- 7.3 No Person shall interfere with or disrupt an Activity for which an Open Space Permit has been issued.

8. BUSINESS ACTIVITES

- 8.1 In an Open Space Area, unless a Person has obtained an Open Space Permit, no Person shall:
 - (a) place or erect any Signs or hand out any brochures for the purposes of advertising;
 - (b) use any public address system for advertising; or
 - (c) conduct any Business Activities.

9. PUBLIC GATHERINGS

- 9.1 In an Open Space Area, unless a Person has obtained an Open Space Permit, no Person shall:

- (a) take part in any Parade, Procession or Special Event;
- (b) make a public address or take part in a demonstration; or
- (c) operate any amplifying system or loudspeaker.

10. EVENTS

- 10.1 Any Person wishing to host or organize an Event in any Open Space Area must receive an Open Space Permit.
- 10.2 The City Manager may in the City Manger's sole discretion refuse to issue an Open Space Permit, or issue an Open Space Permit with or without conditions deny an Open Space Permit, or cancel an Event.
- 10.3 All organized sports or other Activities that require exclusive use of an Athletic Facility requires an Open Space Permit.
- 10.4 The City Manager may restrict use or close Athletic Facilities to both organized sports and the general public for safety of participants, protection of the Athletic Facility, maintenance, construction, repairs or Events.

11. CONDUCT

- 11.1 No Person shall in any way obstruct the free use or enjoyment of an Open Space Area by any other Person or Persons.
- 11.2 No Person shall disturb others by fighting, using insulting or obscene language or commit any disorderly or lascivious conduct of any kind while in any Open Space Area or engage in any Activity which is likely to lead to a breach of the peace or disrupt the peaceful use and enjoyment of other Persons using the Open Space Area.
- 11.3 No Person shall consume alcoholic beverages in an Open Space Area unless an Open Space Permit has been obtained and a permit or approval has been obtained from Alberta Gaming, Liquor and Cannabis and then only at such locations and in accordance as specified in the Open Space Permit.
- 11.4 No Person shall wade, swim, boat, fish, or carry on any other recreational Activity on or in a Stormwater Management Facility or allow a dog or other domestic animal to enter a Stormwater Management Facility.

- 11.5 No Person shall access the frozen or partially frozen surface of a Stormwater Management Facility for any reason.
- 11.6 A Person who has been directed to leave an Open Space Area by a Peace Officer, shall immediately leave the Open Space Area after being directed to do so.
- 11.7 No Person shall Loiter in an Open Space Area.

12. FIREARMS

- 12.1 Unless an Open Space Permit has been obtained, while in an Open Space Area no Person shall carry or discharge a Firearm.

13. DANGEROUS OBJECTS

- 13.1 Unless an Open Space Permit has been obtained, while in an Open Space Area no Person shall:
- (a) carry or discharge any Fireworks or Explosives of any description in, onto or across an Open Space Area;
 - (b) cast any stones, projectiles, or dangerous object of any kind onto or across an Open Space Area; or
 - (c) propel a golf ball in any manner in, onto or across an Open Space Area.

14. DAMAGE TO PROPERTY

- 14.1 While in an Open Space Area no Person shall:
- (a) destroy, damage, cut, deface or remove any Vegetation or Development;
 - (b) walk, stand, sit or lay upon any flower or shrub bed;
 - (c) walk, cross, or use any grass, plot, or land where Signs have been posted prohibiting such use;
 - (d) initiate the construction of any Development without obtaining an Open Space Permit; and

- (e) use or apply a pesticide or herbicide or drain or dump any chemically treated water or chemical product of any kind.

15. LITTER CONTROL

- 15.1 No Person shall place or deposit in any Open Space Area, except in a waste receptacle provided for such purpose, any paper, cardboard, glass, plastic or any other litter of any kind.
- 15.2 No Person shall dump, deposit or leave in any Open Space Area, any organic waste including grass clippings, leaves, food waste, animal carcass or any biological material.
- 15.3 No Person shall dump any Household Refuse in any waste receptacle in an Open Space Area.

16. FIRES

- 16.1 While in any Open Space Area no Person shall:
 - (a) start or allow to be started, any fire unless it is confined to fireplaces or appliances provided in the Open Space Area for that purpose or in any portable appliance, and then only at such locations within an Open Space Area as designated by an Open Space Permit.
 - (b) use any fuel for fire in an Open Space Area other than dry wood, charcoal, natural gas or propane;
 - (c) leave any fire unattended;
 - (d) throw or place upon the ground any burning material or substance within the limits of any Open Space Area without taking the proper precautions to extinguish such material or substance;
 - (e) remove any firewood from any Open Space Area unless it is used specifically in a fireplace provided for fires within that Open Space Area; or
 - (f) collect firewood, including deadfall for the purpose of burning, from any Open Space Area.

17. PATHWAYS

17.1 All Pathway users shall:

- (a) share the Pathways with all other Pathway Users;
- (b) keep to the right of center except:
 - (i) when passing other Pathway Users travelling in the same direction; and
 - (ii) when turning left off of the Pathway onto an intersecting road or Pathway.
- (c) control their speed and exercise due care and attention, having due regard for safety of other Pathway users on Pathways;
- (d) warn others by voice, bell, horn or other warning device when passing; and
- (e) yield the right-of-way to slower moving Pathway Users or oncoming traffic.

18. BICYCLES AND SKATING

18.1 No Person shall ride a Bicycle or Skate within any Open Space Area or in any portion of an Open Space Area where a Sign is posted prohibiting that Activity.

19. CAMPING

19.1 No Person shall camp or set up temporary accommodations of any kind in an Open Space Area unless they have obtained an Open Space Permit.

20. EXEMPTIONS

20.1 The employees, servants and agents of the City of Spruce Grove while acting in the course of their employment or duties are exempt from the provisions of this bylaw.

20.2 The employees, servants and agents of an Education Authority that are engaged in maintenance, repair or similar types of work taking place on or in an Open Space Area that is associated with a school are exempt from the provisions of this bylaw.

21. OFFENCES AND PENALTIES

21.1 A party who fails to comply with:

- (a) hours of operation for an Open Space Area or any part thereof;
- (b) the temporary closure of an Open Space Area or any part thereof;
or;
- (c) restrictions, rules or regulations regarding the use of Open Space Areas

established by the City Manager pursuant to this bylaw is guilty of an offence; provided, however, that a failure to comply with any of subsections (a) – (c) herein shall not constitute an offence unless the City Manager has posted a Sign stating the requirement in a location that is, in the opinion of the City Manager, visible to users of the Open Space Area in question or the City Manager has provided notice via the City's website or City media site.

21.2 A Person is a party to and guilty of an offence who:

- (a) actually commits the offence;
- (b) aids or abets a Person in the commission of an offence; or
- (c) counsels or procures a Person to commit an offence.

21.3 Any Person who contravenes any provision of this bylaw is guilty of an offence and is liable upon summary conviction, to a specified penalty for that offence as set out in Schedule "A" to this bylaw.

21.4 Notwithstanding Schedule "A" of this bylaw, any Person who commits a Second or Subsequent Offence under this bylaw, where the Second or Subsequent fine is not otherwise specified in Schedule 1, is liable on summary conviction to double the fine set out in Schedule 1 to this bylaw, for that offence.

21.5 A person who is guilty of an offence is liable to a fine in an amount not less than that established in Schedule "A", and not exceeding \$5,000.00.

21.6 Nothing in the bylaw shall be construed to curtail or abridge the right of the City to prosecute an action for damages by reason of injuries suffered to any Open Space Area resulting from the contravention of any of the provisions of this bylaw, or any other City bylaw or provincial statute.

22. ENFORCEMENT

- 22.1 Each Peace Officer is hereby charged with the duty of enforcing this bylaw.
- 22.2 A Peace Officer is hereby authorized and empowered to issue a Municipal Ticket to any Person who is believed on reasonable and probable grounds to have contravened any provisions of this bylaw.
- 22.3 A Municipal Ticket shall be deemed to have been sufficiently served if:
- (a) served personally upon the accused;
 - (b) mailed to the last known address of the registered owner of the motor vehicle concerned; or
 - (c) attached or left upon the motor vehicle or property in respect of which the offence is alleged to have been committed.
- 22.4 A Municipal Ticket shall be in a form approved by the City, and shall state:
- (a) the name of the Person;
 - (b) the Offence;
 - (c) the appropriate penalty for the offence as specified in this bylaw;
 - (d) the due date at which time the penalty is required to be paid; and
 - (e) any other information as may be required by the City.
- 22.5 Where a Municipal Ticket has been issued to a Person pursuant to this bylaw, the Person to whom the ticket has been issued to may in lieu of prosecution of the offence, pay the City the specified penalty set out on the Municipal Ticket by the due date listed on the Municipal Ticket.
- 22.6 In those cases where a Municipal Ticket has been issued and the penalty specified on the Municipal Ticket has not been paid within the prescribed time, a Peace Officer is authorized and empowered to issue a Violation Ticket pursuant to Part II or Part III of the *Provincial Offences Procedures Act*, RSA 2000, c. P-34, as amended.
- 22.7 Nothing in this bylaw shall prevent a Peace Officer from immediately issuing a Violation Ticket pursuant to either Part II or Part III of the *Provincial Offences Procedures Act*, RSA 2000, c. P-34, as amended

- 22.8 If a Person has been prosecuted for the offence specified in the Violation Ticket and has been convicted of such, then the fine imposed shall not be less than the original amount indicated on the Violation Ticket.
- 22.9 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 by the City shall lie upon the Person charged.
- 22.10 In the prosecution of an alleged contravention of any of the provisions of this bylaw, the onus of proof that the Open Space Area upon which the contravention or contraventions are alleged to have occurred are not lands protected by this bylaw shall lie upon the Person charged with the offence.

23. SEVERABILITY

- 23.1 Every provision of this bylaw is independent of all other provisions and if any provision is declared invalid by a Court, then the invalid provisions shall be severed and the remainder provisions shall remain valid and enforceable.

24. EFFECTIVE DATE

- 24.1 This bylaw shall come into force and effect when it receives third reading and is duly signed.

25. REPEAL OF BYLAW C-910-15

- 25.1 Bylaw C-910-15 is hereby repealed.

First Reading Carried 09 November 2020

Second Reading Carried 23 November 2020

Third Reading Carried 14 December 2020

Date Signed 17 December 2020

Mayor

City Clerk

SCHEDULE A – PENALTIES AND FINES

The collection of all fines will follow the *Provincial Offences Procedures Act*, RSA 2000, c. P-34, as amended.

PUBLIC ACCESS

4.2	Entering an Open Space Area outside designated hours	\$100.00
4.3	Entering an Open Space Area when closed	\$100.00

OPEN SPACE PERMITS

6.1(a)	Carrying on Activity without an Open Space Permit	\$115.00
6.1(b) and (f)	Non-compliance with Terms and Conditions	\$250.00
6.1(e)	Failure to Produce Open Space Permit	\$115.00
6.2	Making/Providing False or Misleading Statement/Information	\$500.00

ADMISSIONS

7.1	Entering an Open Space Area to which access is prohibited	\$100.00
7.2	Charging for use of an Open Space Area	\$100.00
7.3	Disrupting an Activity for which an Open Space Permit has been issued	\$100.00

BUSINESS ACTIVITIES

8.1(a)	Erecting Signs for advertising	\$100.00
8.1(b)	Using public address system for advertising	\$100.00
8.1(c)	Selling of goods or services	\$100.00

PUBLIC GATHERINGS

9.1(a)	Taking part in a procession or Public Gathering without an Open Space Permit	\$100.00
9.1(b)	Making a public address or taking part in a demonstration Without an Open Space Permit	\$100.00
9.1(c)	Operating an amplifying system or loudspeaker without an Open Space Permit	\$100.00

EVENTS

10.1	Hosting or organizing an Event without an Open Space Permit	\$100.00
10.2	Hosting or organizing an Event after the City Manager cancels the Open Space Permit	\$750.00
10.3	Hosting or organizing a sporting Event without an Open Space Permit	\$100.00
10.4	Entering an Athletic Facility that the City Manager has closed	\$250.00

CONDUCT

11.1	Obstruct free use of enjoyment of Open Space Area	\$250.00
11.2	Public nuisance	\$250.00
11.3	Consumption of alcohol	\$115.00
11.4	Accessing a Storm Water Management Facility	\$150.00
11.5	Accessing the frozen surface of a Storm Water Management Facility	\$150.00
11.6	Refusing to leave after directed to do so	\$150.00
11.7	Loiter in an Open Space Area	\$100.00

FIREARMS

12.1	Carrying or discharging Firearms without an Open Space Permit	\$250.00
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DANGEROUS OBJECTS

13.1(a)	Discharging Fireworks or Explosives	\$250.00
13.1(b)	Casting stones, missiles or other Dangerous Objects	\$100.00
13.1(c)	Propelling golf balls	\$100.00

DAMAGE TO PROPERTY

14.1(a)	Destroying, damaging or removing Vegetation and/or Development	\$250.00
14.1(b)	Walking, standing or sitting on flower or shrub beds	\$100.00
14.1(c)	Walking, crossing or using any grass, plot or land where prohibited	\$50.00
14.1(d)	Development without an Open Space Permit	\$500.00
14.1(e)	Use, apply or dump a pesticide, herbicide or chemically treated water or product	\$250.00

LITTER CONTROL

15.1	Littering	\$250.00
15.2	Dumping of organic matter	\$250.00
15.3	Dumping of Household Refuse	\$250.00

FIRES

16.1(a)	Starting fires in places other than receptacles provided for such use	\$250.00
16.1(b)	Use of non-Open Space permitted fuel	\$50.00
16.1(c)	Leaving a fire unattended	\$250.00
16.1(d)	Discarding burning material within an Open Space Area	\$250.00

16.1(e)	Removing firewood from an Open Space Area	\$100.00
16.1(f)	Collect firewood	\$50.00

PATHWAYS

17.1	Failure to follow Pathways regulations	\$50.00
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BICYCLES AND SKATING

18.1	Bicycle and/or Skate where prohibited	\$50.00
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CAMPING

19.1	Camping without permission	\$250.00
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GENERAL

	Disobeying regulations or any other provision of this bylaw	\$50.00
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