



BYLAW C-8015-2020

A Bylaw of Rocky View County, in the Province of Alberta, to regulate water supply and distribution services within Rocky View County.

WHEREAS a Council may pass bylaws for municipal purposes, respecting services provided by or on behalf of the municipality;

AND WHEREAS a Council may pass bylaws for municipal purposes respecting public utilities;

AND WHEREAS it is deemed to be in the public interest to provide for water supply and distribution services in the County;

AND WHEREAS a Council may by bylaw prohibit any person from providing the same or similar type of utility service in all or part of the municipality;

AND WHEREAS Rocky View County desires to confer an exclusive franchise upon Calalta Waterworks Ltd. in accordance with the provisions of this Bylaw and the Franchise Agreement;

NOW THEREFORE pursuant to the authority conferred upon it by the laws of the Province of Alberta, Rocky View County Council duly assembled enacts as follows:

Title

1. This Bylaw shall be known as the “Calalta Water Services Bylaw”.

Purpose

2. The purpose of this bylaw is to prohibit any person other than Calalta Waterworks from providing all or any portion of the Water Services within the Franchise Area.

Definitions

3. Unless the context otherwise requires, in this Bylaw:
 - (a) **“Building”** means any structure, as defined within section 541(b) of the *Municipal Government Act*, located upon any Private Property;
 - (b) **“Bylaw”** means this bylaw, together with any schedules or exhibits attached hereto;
 - (c) **“Calalta Waterworks”** means Calalta Waterworks Ltd.;
 - (d) **“Council”** means the duly elected Council of Rocky View County;
 - (e) **“County”** means Rocky View County;

- (f) **“County Manager”** means that individual appointed by Council into the position of Chief Administrative Officer for the County pursuant to the *Municipal Government Act* or his/her designate;
- (g) **“Court”** means a Court of competent jurisdiction in the Province of Alberta;
- (h) **“Dangerous”** means circumstances of non-compliance with this Bylaw located upon or within Property, constituting an Emergency;
- (i) **“Demand”** means a demand issued in writing on behalf of the County;
- (j) **“Designated Officer”** means a person appointed to that office pursuant to the *Municipal Government Act* or an authorized delegate thereof;
- (k) **“Emergency”** means an emergency as defined within section 541(a) of the *Municipal Government Act*.
- (l) **“Enforcement Appeal Committee”** means the Council committee established in Rocky View County bylaw No. C-7717-2017, the *Appeal and Review Panel Bylaw*;
- (m) **“Enforcement Officer”** means a member of the Royal Canadian Mounted Police (R.C.M.P), a Peace Officer appointed by the Solicitor General of Alberta in accordance with the *Peace Officers Act*, SA 2006, c P-3.5, and a Bylaw Enforcement Officer employed by the County in accordance with the *Municipal Government Act*;
- (n) **“Excluded Services”** means, collectively or individually:
 - (i) any and all private third party-owned/operated water systems providing Water Services as of the date that this Bylaw comes into force (whether providing services under a franchise agreement or otherwise);
 - (ii) any and all:
 - (A) truck fill service providing Potable Water (which includes hauling and delivery), and
 - (B) privately owned and operated wells, intakes, and related works providing Potable Water to the Property of the owner and/or operator of the said wells, intakes, and related works;

either existing as of the date that this Bylaw comes into force or subsequently permitted under any other County bylaw or any subdivision or development authority decision issued by the County;
 - (iii) any other exceptions to the exclusive right to provide Water Services as provided for within the Franchise Agreement (including, without restriction, the provision of such services by the County in event of default on the part of Calalta Waterworks under the Franchise Agreement, or pursuant to any other legal right to perform);

- (o) **“Franchise Agreement”** means that agreement executed by the County and Calalta Waterworks in accordance with the authorities provided by Council and the provisions of section 45 of the *Municipal Government Act*, as such agreement may be amended, restated or replaced from time to time;
- (p) **“Franchise Area”** means all that portion of the County forming part of the Franchise Area generally depicted within Schedule “B” attached to this Bylaw;
- (q) **“Injunction Order”** means an Order issued by the Court of Queen’s Bench of Alberta, requiring any Person to comply with any Remedial Order, or comply with the *Municipal Government Act*, any other enactment that the County is authorized to enforce, or this Bylaw;
- (r) **“Manager”** means the County Manager or his designate;
- (s) **“Master Rates Bylaw”** means Rocky View County bylaw No. C-7630-2017, or its successor bylaw;
- (t) **“Municipal Government Act”** means the *Municipal Government Act*, RSA 2000, c. M-26;
- (u) **“Notice”** means written notice provided by the County;
- (v) **“Occupant”** means a Person in possession of any Property or Building;
- (w) **“Owner”** means the owner of any Property, as defined within the *Municipal Government Act*;
- (x) **“Person”** includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the County, its agents or duly authorized representatives;
- (y) **“Potable Water”** means treated water suitable for human consumption;
- (z) **“Private Property”** means land owned by a person, group, corporation or other entity, not a governmental body;
- (aa) **“Property”** means any Private Property, Buildings, or any personal property located thereupon, within the Franchise Area;
- (bb) **“Provincial Offences Procedure Act”** means the *Provincial Offences Procedure Act*, RSA 2000, c P-34;
- (cc) **“Public Properties”** means all fee simple and leasehold estates, rights-of-way, undersurface rights, easements and other interests in land or licenses or rights in respect to land, now and hereafter held or acquired by the County (including municipal roads, reserve lands, and public utility lots);

- (dd) **“Reasonable Notice”** means such notice as may fairly and properly be expected in particular circumstances;
- (ee) **“Reasonable Time”** means such time as may fairly and properly be expected in particular circumstances;
- (ff) **“Unauthorized Service”** means, collectively or individually:
 - (i) the provision of all or any portion of the Water Services by any Person other than Calalta Waterworks, its agents or duly authorized representatives; or
 - (ii) the purchase or receipt of all or any portion of the Water Services other than through or from Calalta Waterworks, its agents or duly authorized representatives;

but for clarity shall be deemed to exclude the Excluded Services;
- (gg) **“Violation Ticket”** means a violation ticket issued pursuant to the *Provincial Offences Procedure Act*;
- (hh) **“Water and Wastewater Utility Bylaw”** means Rocky View County Bylaw No. C-7662-2017;
- (ii) **“Water Services”** means the provision or delivery of Potable Water to, or for use or consumption within or upon, Property located within the Franchise Area through a piped water distribution system, performed or provided subject to and in accordance with the provisions of the Franchise Agreement and the provisions of all applicable County bylaws including, without restriction, the County Water and Wastewater Utility Bylaw, but for clarity shall exclude the Excluded Services; and
- (jj) **“Written Warning”** means written documentation regarding infraction and what action will be taken if the infractions continue.

Application

4. Nothing in this Bylaw relieves a Person from complying with any provision of any federal or provincial law or regulation, other bylaw, or any requirement of any lawful permit, order or license.
5. Any heading or sub-headings in this Bylaw is included for guidance purposes and convenience only, and shall not form part of this Bylaw.
6. Specific reference to other bylaws, statutes and regulations are intended to refer to the current laws applicable within the Province of Alberta as at the time this Bylaw is enacted, and as may be amended from time to time, including successor legislation.
7. All of the schedules attached to this Bylaw shall form a part of this Bylaw.

8. This Bylaw is gender-neutral and, accordingly, any reference to one gender includes another.

General Prohibitions & Required Connections

9. Other than those exclusions listed as Excluded Services, no person shall:
 - (a) provide all or any portion of the Water Services within the Franchise Area other than Calalta Waterworks, its agents or duly authorized representatives;
 - (b) purchase or receive all or any portion of the Water Services within the Franchise Area, other than through or from Calalta Waterworks, its agents or duly authorized representatives;
 - (c) connect to the system or works of a utility service providing Water Services within the Franchise Area, other than the system or works of Calalta Waterworks; or
 - (d) disconnect from the system or works of Calalta Waterworks.
10. Notwithstanding the foregoing, the County Manager may require the Owner of Property within the Franchise Area and located adjacent to the system or works of Calalta Waterworks to connect the Buildings located upon the Property to the system or works of Calalta Waterworks including, but not limited to, requiring the Owner to:
 - (a) provide or pay for a service connection to the Building to the water main forming part of the system or works of Calalta Waterworks at the Owner's sole cost and expense;
 - (b) pay all applicable and connection fees or charges;
 - (c) install a meter;
 - (d) disconnect the Building from any private water system or service;
 - (e) remove and/or remediate the any private water system or service;
 - (f) set up a utility account with Calalta Waterworks for the Property and the Building(s); and
 - (g) obtain Water Services from Calalta Waterworks;

provided always that the County, Council and the County Manager shall be under no obligation whatsoever to exercise or impose all or any of the foregoing discretions or requirements.

General

11. For the purpose of Sections 542 of the Municipal Government Act, the Manager and Enforcement Officers are Designated Officers for the purposes of carrying out inspections, remedial actions and enforcement.

12. The Manager may enforce the provisions of this Bylaw by taking any or all of the following enforcement actions:
 - (a) Issuing a Written Warning,
 - (b) Issuing a Remedial Order,
 - (c) Obtaining an Injunction Order, and
 - (d) Any other lawful and authorized action to enforce compliance.
13. An Enforcement Officer may enforce the provisions of this Bylaw by taking any or all of the following enforcement actions:
 - (a) Issuing a Written Warning,
 - (b) Issuing a Violation Ticket,
 - (c) Obtaining an Injunction Order, and
 - (d) Any other lawful and authorized action to enforce compliance.
14. Nothing within this Bylaw shall limit or prevent the County from issuing a Remedial Order in lieu of or in addition to issuing a Violation Ticket or taking any other enforcement action.

Right of Entry: Inspections, Remedial and Enforcement Action

15. After providing Reasonable Notice to the Owner or Occupant of Property or a Building in accordance with Section 542 of the *Municipal Government Act*, the Manager or Enforcement Officer may enter into or onto any Property or Building at a Reasonable Time for the purpose of determining if the requirements of this Bylaw is being complied with or for the purpose of carrying out remedial or enforcement action authorized by this Bylaw, the *Municipal Government Act* or an Injunction Order.
16. Notwithstanding Section 15, in an Emergency or extraordinary circumstance, the Manager or Enforcement Officer does not need to provide Reasonable Notice to the Owner or Occupant and the Manager or Enforcement Officer may enter upon or into Property or a Building without the consent of the Owner or Occupant at any time.
17. No Person shall prevent or obstruct the Manager or Enforcement Officer from carrying out any official duty pursuant to this Bylaw.
18. If a Person prevents, obstructs or interferes with the Manager or Enforcement Officer carrying out any official duty under this Bylaw or if a person refuses to produce anything to assist the Manager or Enforcement Officer in the inspection, remedial action or enforcement action, then the County may apply to the Court of Queen's Bench for an order pursuant to Section 543 of the *Municipal Government Act*.

Written Warning

19. Where the Manager or Enforcement Officer determines that Property or the use of Property is in contravention of this Bylaw, he/she may issue a Written Warning to the Owner and/or Occupant of the Property. The Written Warning shall:
- (a) Describe the subject Property by municipal address or location and/or legal description,
 - (b) State the nature of the contravention,
 - (c) State what remedial measures or action must be taken in order to remedy the contravention,
 - (d) State a time within which the Owner and/or Occupant must complete the remedial measures or action which, unless the matter poses a safety risk to life or property, must not be less than seven days from the date of delivery of the Written Warning,
 - (e) Advise that if the Written Warning is not adhered to, the County may undertake further enforcement measures pursuant to this Bylaw and the *Municipal Government Act*.

Remedial Order

20. Where the Manager determines that a Property or use of Property is in contravention of this Bylaw, he/she may issue a Remedial Order under s 545 of the *Municipal Government Act* to any or all of the Owner and/or Occupant of the Property. The Remedial Order shall:
- (a) Describe the subject Property by municipal address or location and/or legal description,
 - (b) State the nature of the Bylaw contravention,
 - (c) Direct the Owner, Occupant and/or person responsible for the Bylaw contravention to take any or all of the following actions:
 - (i) Stop doing something, or change the way in which the Person is doing it,
 - (ii) Take any action or measures necessary to remedy the Bylaw contravention, including the removal or demolition of a structure that has been erected or placed in contravention of this Bylaw and, if necessary, to prevent a re-occurrence of the contravention,
 - (iii) State a time in which the Person must comply with the directions in the Remedial Order,
 - (d) State that if the Person does not comply with the directions within the time specified within the Remedial Order, the County will take the action or measure at the expense of the Person and may undertake further enforcement measures pursuant to this Bylaw and the *Municipal Government Act* including but not limited to:

- (i) entering onto or into the Property and performing the necessary remedial action pursuant the *Municipal Government Act*,
 - (ii) obtaining an Injunction Order,
 - (iii) issuing a Violation Ticket, and/or
 - (iv) registering the Remedial Order on the certificate of title to the subject Property pursuant to the *Municipal Government Act*,
- (e) In addition to the directions set out above, where the Manager or Enforcement Officer is of the opinion that a structure, excavation or hole is Dangerous, the Remedial Order may be issued under s 546 of the *Municipal Government Act*, and may require the Owner of the structure to:
- (i) eliminate the danger to public safety in the manner specified in the Remedial Order, or
 - (ii) unless a matter poses a safety risk to life or property, the time period for bringing the Property into compliance must not be less than 14 days from the date of delivery of the Remedial Order,
 - (iii) advise that the Person(s) to whom the Remedial Order is issued may request a review of the Remedial Order by Council in accordance with Section 547 of the *Municipal Government Act*,
 - (iv) advise that the costs and expenses incurred by the County in enforcing the Remedial Order may be added to the tax roll of the subject Property whereby the amount will be deemed to be a property tax imposed under Division 2 of Part 10 of the Municipal Government Act from the date that it was added to the tax roll and will form a special lien against the Property in favour of the County from the date it was added to the tax roll, in accordance with Section 553 of the *Municipal Government Act*.

Remedial Order Review

21. Any Person who receives a Remedial Order may, by written notice, request that review the Remedial Order by filing a written notice with the Manager requesting the Enforcement Appeal Committee review within 14 days (7 days in the case of an Order made under section 546) after the date that the Remedial Order is received by the Person. The written notice must:
- (a) set out the basis for the request for Enforcement Appeal Committee review,
 - (b) state the name and address of the Person making the request for review,
 - (c) state the address of the subject Property,
 - (d) be dated and signed by the Person making the request for review, and

- (e) include the Enforcement Appeal Committee review fee as may be established in the *Master Rates Bylaw*.
22. Within 30 days after receiving a complete written notice filed in compliance with Section 21, the Enforcement Appeal Committee shall review the Remedial Order. Upon completion of its review, the Enforcement Appeal Committee may confirm, vary, substitute or cancel the Remedial Order. The Enforcement Appeal Committee shall issue written reasons for its decision to the Person who requested the review.
23. Subject to an appeal being filed with the Court of Queen's Bench in accordance with the Municipal Government Act from the Enforcement Appeal Committee's decision made in accordance with Section 22, the Enforcement Appeal Committee's decision is final and binding on all parties.

Offences

24. Any Person who
- (a) violates or contravenes or causes, allows or permits a contravention of any provision of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine in an amount not to exceed the specified penalties listed within Schedule "A" attached to this Bylaw, imprisonment for not more than one year, or to both fines and imprisonment; or
 - (b) fails to comply with the directions set out in a Remedial Order within the time frame specified is guilty of an offence and is liable upon summary conviction to a fine in an amount not to exceed \$10,000.00, imprisonment for not more than one year, or to both fines and imprisonment.
25. It is the intention of Council that all offences created under this Bylaw be interpreted to be strict liability offences.
26. Where a contravention of this Bylaw is of a continuing nature, a contravention shall constitute a separate offence in respect of each day, or part of a day, on which that offence continues.

Service of Written Warnings, Notices, Demands, and Remedial Orders

27. In any case, where the Manager or Enforcement Officer, as the case may be, issues a Written Warning, Notice, Demand, or Remedial Order to any Person, the Manager or Enforcement Officer shall effect such service, either:
- (a) by causing a written copy of the Written Warning, Notice, Demand, or Remedial Order to be personally delivered to the Person named in the Written Warning, Notice, Demand, or Remedial Order,
 - (b) in the case of an individual, by causing a written copy of the Written Warning, Notice, Demand, or Remedial Order to be delivered and left with a person of at least 18 years of age at the Person's residence,

- (c) in the case of a corporation, by sending a written copy of the Written Warning, Notice, Demand, or Remedial Order by registered mail to the registered office of the corporation, or by delivering it personally to the manager, secretary or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address,
- (d) by causing a written copy of the Written Warning, Notice, Demand, or Remedial Order to be delivered to and left in a conspicuous place at or about the subject Property or Building; or
- (e) by causing a written copy of the Written Warning, Notice, Demand, or Remedial Order to be mailed or delivered to the last known address of the Person as disclosed in the land registry system established by the Land Titles Act of Alberta as shall appear to the Manager or Enforcement Officer most appropriate in the circumstances, and such service shall be adequate for the purposes of this Bylaw.

Violation Ticket

- 28. An Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket to any Person where the Enforcement Officer has reasonable and probable grounds to believe that Person has contravened any provision of this Bylaw.
- 29. A Violation Ticket may be served on such Person who is an individual, either:
 - (a) by delivering it personally to such Person, or
 - (b) by leaving a copy for such Person at his/her residence with an individual at the residence who appears to be at least 18 years of age, and such service shall be adequate for the purposes of this Bylaw.
- 30. A Violation Ticket may be served on a Person which is a corporation, either:
 - (a) by sending it by registered mail to the registered office of the corporation, or
 - (b) by delivering it personally to the manager, secretary or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address, and such service shall be adequate for the purposes of this Bylaw.
- 31. This Section does not prevent an Enforcement Officer from issuing a Violation Ticket requiring a Court appearance by the Defendant in accordance with the *Provincial Offences Procedures Act*.

Recovery of Enforcement Costs

- 32. The expenses incurred by the County in carrying out enforcement action pursuant to this Bylaw constitutes a debt owing to the County from the Person responsible for the Bylaw contravention and may be collected by civil action for debt in a court of competent jurisdiction, in accordance with the *Municipal Government Act*.

33. In the event of the County carrying out enforcement action pursuant to a Remedial Order, the Manager is responsible for sending a demand for payment of enforcement expenses incurred by the County to the Person to whom the Remedial Order was directed. Where the Person to whom the Remedial Order was directed is the Owner of the Property upon which the contravention occurred in whole or in part and the Owner fails to pay the enforcement expenses incurred by the County within the time frame set out in the demand for payment, the Manager shall place the unpaid expense amount onto the tax roll of the subject Property and that amount:
- (a) is deemed to for all purposes to be a tax imposed under Division 2 of Part 10 of the *Municipal Government Act* from the date it was added to the tax roll, and
 - (b) forms a special lien against the Property in favour of the County from the date it was added to the tax roll for the Property, in accordance with the *Municipal Government Act*.
34. In the event that the County removes any Property as part of its enforcement action undertaken pursuant to this Bylaw and the *Municipal Government Act*, the Manager or Enforcement Officer shall issue a written notice to the Owner of the Property setting out a time period in which the Owner may recover the Property from the County, which time frame must not be less than 30 days from the date of receipt of the Written Notice by the Person, as well as any amounts owing by the Owner to the County related to the removal and/or storage of the Property or related enforcement activities.
35. In the event that the Owner of the Property fails to retrieve the Property and pay any associated expenses or costs incurred by the County in the removal or storage of the Property within the time frame specified in writing by the County in accordance with Section 34, the Manager may direct that the Property be disposed of as he/she deems appropriate and any revenue generated from the disposal of the Property shall be used to pay the County's costs and expenses incurred in the removal, storage or disposal of the Property or related enforcement activities undertaken by the County in accordance with this Bylaw and the *Municipal Government Act* and any excess amounts remaining shall be paid to the Owner of the Property.

Vicarious Liability

36. For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the course of the agent's exercising the powers or performing the duties on behalf of the Person under their agency relationship.

Corporations and Partnerships

37. When a Corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

38. If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

Enforcement

39. Payment of any penalty or fine imposed pursuant to this Bylaw does not relieve a Person from the necessity of paying any fees, charges or costs for which that Person is liable under the provisions of this Bylaw or any other bylaw or enactment.

Obstruction

40. No Person shall obstruct, hinder or impede any authorized representative of the County in the exercise of any of their powers or duties pursuant to this Bylaw.

Administering the Bylaw

41. The Manager is authorized to administer this Bylaw, as well as supervise, control and direct the Franchise Agreement.

Severability

42. Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.
43. Evidence that a Person is an owner of Property or Private Property providing or receiving an Unauthorized Service is *prima facie* proof that the owner of the Property is responsible for the Unauthorized Service.
44. The County is not liable for damages or costs to remedy an Unauthorized Service.
45. The County is not liable for not taking an action on or in respect of an Unauthorized Service, and in no event that any such inaction be deemed or interpreted as an authorization of any Unauthorized Service.
46. This Bylaw shall come into full force and effect on the day that it is finally passed by Council by giving it third and final reading and it is signed in accordance with the *Municipal Government Act*.

READ A FIRST TIME IN COUNCIL this _____ day of _____, 2020

READ A SECOND TIME IN COUNCIL this _____ day of _____, 2020

UNANIMOUS PERMISSION FOR THIRD READING _____ day of _____, 2020

READ A THIRD TIME IN COUNCIL AND PASSED this _____ day of _____, 2020

Reeve

CAO or Designate

Date Bylaw Signed

SCHEDULE "A" – Specified Penalties

First Offence: A minimum of \$500.00.

Second Offence: A minimum of \$2,000.00.

Each Subsequent Offence: A minimum of \$5,000.00.

SCHEDULE "B" – FRANCHISE AREA

The Franchise Area shall consist of the exclusive service area as follows:

