

BYLAW 18-2023
NORTHERN BEAR WATER AND WASTEWATER SERVICES FRANCHISE BYLAW

The *Municipal Government Act*, RSA 2000, c M-26, as amended (the "MGA"), provides that a council may pass bylaws for municipal purposes respecting services provided by or on behalf of the municipality and public utilities;

Section 45 of the MGA provides that a council may, by agreement, grant a right, exclusive or otherwise, to a person to provide a utility service in all or part of the municipality, for not more than 20 years;

Section 46 of the MGA provides that when a person provides a utility service in a municipality under an agreement referred to in section 45, the council may by bylaw prohibit any other person from providing the same or a similar utility service in all or part of the municipality;

Council desires to grant, and Properties Of Northern Bear Inc. and Touchwood Holdings Ltd. (collectively the "franchisee") desire to obtain, by way of agreement pursuant to the MGA, the exclusive right to provide potable water services and domestic wastewater services to a specified area of the County for a period of 20 years, subject to a right of renewal or replacement, as set out in the agreement and in the MGA; and

Council has determined that the franchise will be in the public interest, and Council and the franchisee have agreed to enter into a Water & Wastewater Franchise Agreement.

Council enacts:

PART I - DEFINITIONS AND INTERPRETATION

Definitions

1 In this bylaw:

- (a) "bylaw enforcement officer" means an individual appointed or authorized by the chief administrative officer of the County to enforce County bylaws, and includes a peace officer and a police officer as further defined in section 12;
- (b) "County" means the municipal corporation of Strathcona County, a specialized municipality established under the authority of the MGA and Order in Council 761/95, or the municipal boundaries of Strathcona County, as the context requires;
- (c) "franchise agreement" means the Water & Wastewater Franchise Agreement between the County and the

franchisee, in accordance with section 45 of the MGA, as such agreement may be amended, restated, or replaced from time to time;

- (d) "franchise area" means all that portion of the County depicted within Schedule B to this bylaw;
- (e) "franchisee" means Properties Of Northern Bear Inc. and Touchwood Holdings Ltd., collectively;
- (f) "MGA" means the *Municipal Government Act*, RSA 2000, c M-26, as amended or repealed and replaced from time to time;
- (g) "peace officer" means an individual appointed by the province of Alberta under the authority of the *Peace Officer Act*, SA 2006, c P-3.5, as a peace officer, and with the authority to enforce this bylaw;
- (h) "person" includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators, or other representatives;
- (i) "potable water" means treated water suitable and intended for human or animal consumption;
- (j) "property" means any lands, buildings, structures or premises, or any personal property located thereon;
- (k) "unauthorized service" means, the provision, purchase, or receipt of water service or wastewater service within the franchise area, except:
 - i. all water service and wastewater service existing as at the date this bylaw comes into force that is provided by any person pursuant to any municipal franchise agreement existing as at the date this bylaw comes into force that was granted by the County pursuant to section 45 of the MGA;
 - ii. all water service and wastewater service existing as at the date this bylaw comes into force that is provided by any rural utility association created under the *Rural Utilities Act*, RSA 2000, c R-21, and regulations thereunder;
 - iii. a truck-fill station operated by or on behalf of the

County within the franchise area providing potable water for use outside of the franchise area; and

iv. all privately owned and operated wells, intakes, and related works, providing potable water to the person who own those wells, intakes, and related work;

(l) "violation ticket" means a ticket issued pursuant to the *Provincial Offences Procedures Act*, RSA 2000, c P-34;

(m) "wastewater" means water discharged from a property that has been used for washing, flushing, in a manufacturing process, or in any other process, and so contains waste products;

(n) "wastewater service" means the collection of domestic wastewater from property located within the franchise area, and the treatment and disposal of domestic wastewater; and

(o) "water service" means the provision of potable water for use or consumption within or upon property located within the franchise area.

Interpretation

2 The following rules apply to interpretation of this bylaw:

(a) headings and margin notes in this bylaw are for ease of reference only;

(b) gender-specific words, phrases, and references are intended to be gender-neutral, and the singular includes the plural as the context requires;

(c) every provision of this bylaw is independent of all other provisions and if any provision of this bylaw is declared invalid by a Court, all other provisions of this bylaw are intended to remain valid and enforceable;

(d) references to bylaws and enactments in this bylaw include amendments and replacement bylaws and enactments, and regulations and orders thereunder; and

(e) all offences under this bylaw are strict liability offences.

PART II – AUTHORIZATION TO OPERATE UTILITY

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| Approval to Operate Utility | 3 The franchisee is authorized to provide water service and wastewater service in accordance with the franchise agreement. |
| | 4 Council consents to the exercise by the franchisee within the franchise area of the powers given to the franchisee by the <i>Water, Gas and Electric Companies Act</i> , RSA 2000, c W-4, insofar as they are consistent with the terms of the franchise agreement. |
| Prohibition | 5 A person must not provide or receive unauthorized service. |

PART III - ENFORCEMENT

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| Offences | 6 A person who fails to comply with a provision of this bylaw is guilty of an offence. |
| Continuing Offences | 7 If an offence is of a continuing nature, each day or part thereof that a person fails to comply with the requirements of this bylaw constitutes a new offence. |
| Obstruction | 8 A person who interferes with or obstructs a bylaw enforcement officer in the execution of the bylaw enforcement officer's duties under this bylaw is guilty of an offence. |
| Presumption of Service | 9 Evidence that a person is an owner of property that is providing or receiving unauthorized service is <i>prima facie</i> proof that the owner of the property has provided or received the unauthorized service. |
| False information | 10 A person who provides false information to a bylaw enforcement officer is guilty of an offence. |
| Enforcement Measures | 11 Nothing in this bylaw precludes a bylaw enforcement officer from taking any enforcement measure available in another bylaw or enactment, in addition to issuing a municipal tag or violation ticket for an offence. |
| | 12 A bylaw enforcement officer is a designated officer of the County with the power to conduct inspections, take enforcement action, and order any person to remedy a contravention pursuant to the MGA, or as provided for in accordance with any other enactment or bylaw. For clarity, a bylaw enforcement officer is authorized to: |

- (a) enter onto land or into or on to a building or structure to conduct inspections to determine compliance with this bylaw; and
- (b) take pictures or images of, or request copies of, anything from in or on a property, premises, or building that is reasonable pertinent to a matter under investigation.

Violation Ticket

- 13 A peace officer is authorized to issue a violation ticket to any person the peace officer believes, on reasonable and probable grounds, has committed an offence under this bylaw.
- 14 If a violation ticket is issued it must be in the prescribed form and must:
 - (a) state the specified penalty for the offence as set out in Schedule A of this bylaw; or
 - (b) require the person to appear in Provincial Court with or without the alternative of making a voluntary payment.

Penalties

- 15 Any person guilty of an offence under this bylaw is liable on summary conviction to a penalty in an amount not less than the amount specified in Schedule A of this bylaw, or if not prescribed in Schedule A, not more than \$10,000, and any other penalties that may be prescribed in default of payment in relation proceedings taken under the *Provincial Offences Procedures Act*, RSA 2000, c P-34.

PART IV - GENERAL

General

16 Should any provision of this bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained and deemed valid.

FIRST READING:_____

SECOND READING:_____

THIRD READING:_____

SIGNED THIS ____ day of _____, 20____.

MAYOR

DIRECTOR, LEGISLATIVE AND LEGAL
SERVICES

SCHEDULE A
BYLAW 18-2023
NORTHERN BEAR WATER AND WASTEWATER SERVICES FRANCHISE BYLAW
SPECIFIED PENALTIES

Section	Offence	Violation Ticket		
		First Offence	Second Offence Within two year period	Third or more Offences Within two year period
5	Provide or receive unauthorized service	\$1,500	\$3,000	\$6,000
8	Obstruct a bylaw enforcement officer	\$500	\$1,000	\$2,000
10	Provide false information to a bylaw enforcement officer	\$500	\$1,000	\$2,000

**SCHEDULE B
BYLAW 18-2023
NORTHERN BEAR WATER AND WASTEWATER SERVICES FRANCHISE BYLAW
FRANCHISE AREA**

