

BYLAW 3/14

A BYLAW TO REGULATE AND MANAGE AN ABANDONED RAILWAY BED/WALKING PATH

The Council of the Village of Buena Vista, in the Province of Saskatchewan, enacts as follows:

Short Title

1. This Bylaw may be cited as "The Walking Path Bylaw".

Purpose

2. The purpose of this Bylaw is to maintain the condition of a walking path right of way designated as a public reserve in accordance with *The Planning and Development Act* in as near a natural state as possible.

Definitions

3. In the Bylaw:
 - (a) "**Council**" means the Council of the Village of Buena Vista.
 - (b) "**Designated Officer**" means an employee or agent of the Village appointed by Council to act as a municipal inspector for the purposes of this Bylaw;
 - (c) "**landowner**" means any owner of property in the Village particularly properties that abut the Public Reserve;
 - (d) "**Municipality**" means the Village of Buena Vista;
 - (e) "**public reserve**" means the 100 foot (30.48m) wide right of way along the shoreline, originally the old railroad right of way, as defined by legal survey. The Buena Vista public reserve starts at the west boundary of Buena Vista and extends to the eastern boundary.
 - (f) "**topography**" means the surface features of the land including rocks, topsoil, gravel, sand or any other material that is within the right of way.
 - (g) "**vegetation**" means any grass, weeds, trees or any other living or growing plants.
 - (h) "**Village**" means the Village of Buena Vista.

- (i) **“walking path”** means the old abandoned CPR railway bed running adjacent to Last Mountain Lake from westernmost boundary to the easternmost boundary of the Village.

Alteration of Walking Path Prohibited

4.

- (a) Except as provided in this section, no construction of structures of any kind or alteration of the natural vegetation or topography within the public reserve is allowed.
- (b) A landowner may apply for an exemption from paragraph 4(a) to Council.
- (c) A landowner whose property abuts the public reserve may request a three foot wide access from their property to the public reserve pending approval from the Village and prior inspection by the Public Works foreman to ensure that drainage or any other topographical feature will not be adversely affected.
- (d) Any maintenance, grass cutting or trimming on the public reserve will be done by the Village Public Works only.
- (e) Any request for exemption must be carried out in writing on form Appendix A which is attached to and forms a part of this bylaw.

Existing structures

5.

- (a) All landscaping, clear cutting, structures or construction of any kind within the public reserve in existence prior to December 22, 2010 will be deemed to be grandfathered.
- (b) If a structure or building deemed to be grandfathered becomes derelict or unsafe and must be demolished, no new structure or building may be constructed in its place.

Enforcement of Bylaw

- 6. The administration and enforcement of this bylaw is hereby delegated to the Administrator for the Village of Buena Vista.
- 7. The Administrator is hereby authorized to further delegate the administration and enforcement of this bylaw to a Designated Officer.

Order to Remedy Contraventions

8. If a Designated Officer finds that a person is contravening this bylaw, the Designated Officer may, by written order, require the owner or occupant of the property to which the contravention relates to remedy the contravention by restoring the walking path to the condition that it was in prior to the landowner's construction of a structure or alteration of the natural vegetation or topography of any portion of the walking path, at the landowner's expense.
9. Orders given under this bylaw shall comply with section 364 of *The Municipalities Act*.
10. Orders given under this bylaw shall be served in accordance with section 390 of *The Municipalities Act*.

Registration of Notice of Order

11. If an order is issued pursuant to section 8, the Municipality may, in accordance with section 364 of *The Municipalities Act*, give notice of the existence of the order by registering an interest against the title to the land that is the subject of the order.

Appeal of Order to Remedy

12. A person may appeal an order made pursuant to section 8 in accordance with section 365 of *The Municipalities Act*.

Municipality Remediating Contraventions

13. The Municipality may, in accordance with section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this bylaw.

Recovery of Unpaid Expenses and Costs

14. Any unpaid expenses and costs incurred by the Municipality in remedying a contravention of this bylaw may be recovered either:
 - (a) by civil action for debt in a court of competent jurisdiction in accordance with section 368 of *The Municipalities Act*; or
 - (b) by adding the amount to the taxes on the property on which the work is done in accordance with section 369 of *The Municipalities Act*.

Offences and Penalties

15. No person shall:
 - (a) fail to comply with an order made pursuant to this bylaw;
 - (b) obstruct or interfere with any Designated Officer or any other person acting under the authority of this bylaw; or

- (c) fail to comply with any other provision of this bylaw.
16. Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to section 4 of this bylaw.
17. Every person who contravenes or fails to comply with any provision of this bylaw is guilty of an offence liable on summary conviction to the penalties prescribed in the General Penalty Bylaw of this municipality.

Effective Date

18. This Bylaw shall come into force on the third and final reading by the Village of Buena Vista Council.

Mayor

Chungathur

Chief Administrative Officer

Read a first time and adopted
this *13* day of *May*, 2014.

Read a second time and adopted
this *13* day of *May*, 2014.

Read a third time and adopted
this *13* day of *May*, 2014.

Chungathur

Administrator

APPENDIX A

Permit to construct/erect on the Public Reserve – Bylaw 3/14, known as the Walking Path Bylaw.

Name of landowner: _____

Address: _____

Address of property abutting the Public Reserve:

Legal description of landowner's property

Lot: _____ Block: _____ Plan: _____

Description of access, structure and/or building requested

Description of access, structure and/or building erected before 2010 including year.

Access path (1m wide) from adjoining private property Yes: _____ No: _____

Approved: _____ Date: _____