

LETHBRIDGE COUNTY

BYLAW NO. 1453

HIGHWAY PROTECTION BYLAW

A BYLAW OF LETHBRIDGE COUNTY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF PROTECTING HIGHWAYS AND TO REGULATE THE MEANS OF ACCESS TO AND FROM A HIGHWAY FOR ANY PARCEL OF LAND ABUTTING THEREON.

WHEREAS pursuant to Section 7 of the *Municipal Government Act*, R.S.A. 2000, c.M-26, the council of a municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property and the enforcement of bylaws;

AND WHEREAS, Section 18 of the *Municipal Government Act*, provides that a municipality has the direction, control and management of all roads within the municipality;

AND WHEREAS pursuant to Section 48 of the *Highways Development and Protection Act*, S.A. 2004, c.H-8.5, as amended, the council of a municipality may pass bylaws regulating the placing of roadside improvements on privately owned property;

NOW THEREFORE, the Council for Lethbridge County, in the Province of Alberta, duly assembled, enacts as follows:

PART 1 - SHORT TITLE

1.1 This Bylaw may be cited as the "Highway Protection Bylaw".

PART 2 - INTERPRETATION AND APPLICATION

DEFINITIONS

2.1 In this Bylaw, words shall have the same meanings as in the Highways Development and Protection Act and Regulations thereunder except as otherwise defined below.

2.2 In this Bylaw:

- (a) "**Boulevard**" means a ditch that lies adjacent to and parallel with a Highway;
- (b) "**Boulevard Crossing**" means that portion of a Boulevard constructed and improved for the purpose of providing access to and from a Highway for any parcel of land abutting thereon;
- (c) "**Council**" means the municipal council of Lethbridge County;
- (d) "**County**" means the municipal corporation of Lethbridge County, and includes the geographical area within the boundaries of Lethbridge County where the context so requires;
- (e) "**County Manager**" means the Chief Administrative Officer for the County, or his or her delegate;
- (f) "**Highway**" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles;
- (g) "**Irrigation**" means the artificial application of water to land or soil;
- (h) "**Municipal Tag**" means a tag or similar document issued by the County pursuant to the Municipal Government Act for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow;
- (i) "**Peace Officer**" means a member of the Royal Canadian Mounted Police, a Community Peace Officer whose appointment includes enforcement of the County's Bylaws, or a Bylaw Enforcement Officer appointed by the County;

- (j) **"Person"** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- (k) **"Property"** means any lands within the municipal boundaries of the County;
- (l) **"Tracking"** means the depositing by any means, including the direct deposit or spill, or by release from the tires, wheels or tread of a vehicle or equipment, of any substance including but not limited to clay, earth, sand or gravel in an amount that, in the opinion of a Peace Officer, is excessive such that it is detrimental to the safe use of a highway.
- (m) **"Traffic Control Device"** means any temporary or permanent sign, signal, marking or device placed or erected for the purpose of regulating, warning or guiding traffic;
- (n) **"Vehicle"** means a device in, upon or by which a person or thing may be transported or drawn upon a Highway and includes a combination of Vehicles, but does not include a mobility aid; and
- (o) **"Violation Ticket"** means a ticket issued pursuant to either Part 2 or Part 3 of the Provincial Offences Procedure Act, R.S.A. 2000, c.P-34, as amended.

PART 3 – PROHIBITIONS

BOULEVARDS, BOULEVARD CROSSINGS, HIGHWAYS AND DITCHES

3.1 No Person shall:

- (a) stop or impede the flow of water through any ditch, drain, sewer or culvert on or through a Highway;
- (b) construct or maintain a ditch or drain, the effluent from which causes damage, fouling, nuisance or injury to any portion of a Highway or Boulevard;
- (c) construct and maintain a Boulevard Crossing;
- (d) construct and maintain a Boulevard on any Highway;
- (e) close or alter an existing Boulevard Crossing; or
- (f) construct or place anything within a Boulevard.

3.2 Section 3.1 does not apply to Peace Officers, agents or employees of the County while in the performance of their official duties, or any person acting with the express authorization of the County, including but not limited to acting under the terms of a subdivision approval, development permit or development agreement.

TRACKING MATERIAL

3.3 No person shall operate equipment or vehicle on a highway so as to Track a substance onto that highway.

3.4 Section 3.3 shall not apply to any person that has been issued a valid and subsisting Tracking Permit issued by the County in accordance with the requirements for a Tracking Permit as set out in "Schedule B" of this bylaw.

3.5 Any person that fails to comply with the terms of a Tracking Permit issued in accordance with Schedule B is guilty of an offence.

LITTERING

3.6 No Person shall dispose, discard or deposit, or cause or permit to be disposed, discarded or deposited any litter, refuse, substance or thing of any kind on any Highway or any Boulevard.

MATERIAL ON BOULEVARDS/HIGHWAYS

3.7 No Person shall place, cause to be placed or permit to be placed any earth, sand, gravel, grass, leaves, snow, ice, debris or other material upon any Boulevard or Highway.

DAMAGE TO TRAFFIC CONTROL DEVICES

- 3.8 No Person shall climb upon, interfere with, damage, deface, remove, alter or destroy a Traffic Control Device.

HIGHWAY OBSTRUCTIONS

- 3.9 No Person shall cause or permit any building, structure, fixture, any form of vegetation, fence, sign, notice, advertising device, light or other object on Property they own or occupy in a manner or location that may:
- (a) cause drifting or accumulation of snow on a Highway;
 - (b) damage a Highway;
 - (c) obstruct the vision of pedestrians or drivers of Vehicles on a Highway; or
 - (d) create a hazard or obstruction to vehicular traffic on a Highway.

IRRIGATION ON HIGHWAY

- 3.10 No Person shall cause or permit water used or intended to be used for Irrigation purposes to escape or be sprayed from Property they own into a Boulevard or onto a Highway.

SNOW FENCES

- 3.11 No Person shall move, remove, alter, damage or interfere with a snow fence erected by the County.

LIABILITY FOR DAMAGE

- 3.12 A Person that acts contrary to this Part and causes damage to a Highway, a Boulevard, a Traffic Control Device or a snow fence shall, in addition to any penalty that may be imposed under this Bylaw, be liable to the County for the costs and expenses to remedy the damage.
- 3.13 The costs and expenses imposed by the County pursuant to Section 3.10 shall be paid within thirty (30) days of receipt of an invoice.
- 3.14 Collection of unpaid costs and expenses imposed pursuant to Section 3.10 may be undertaken by civil action in a court of competent jurisdiction.

PART 4 - AUTHORITY OF MUNICIPAL OFFICIALS

AUTHORITY OF THE COUNTY MANAGER

- 4.1 Without restricting any other power, duty or function granted by this Bylaw, the County Manager is authorized to:
- (a) Carry out any inspections to determine compliance with this Bylaw;
 - (b) Take any steps or carry out any actions required to enforce this Bylaw;
 - (c) Take any steps or carry out any actions required to remedy a contravention of this Bylaw; and
 - (d) Delegate any powers, duties or functions under this Bylaw to an employee of the County.

PART 5 - AUTHORITY OF PEACE OFFICERS

MUNICIPAL TAGS

- 5.1 A Peace Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 5.2 *A Municipal Tag may be served:*
- (a) in the case of an individual:
 - i) personally to the individual;
 - ii) by registered mail;

- iii) by leaving it for the individual at his place of residence with a Person who appears to be at least eighteen (18) years of age; or
 - (b) in the case of a partnership or corporation, personally or by registered mail to either the registered office or business address of the partnership or corporation.
- 5.3 Notwithstanding Section 5.2, where no other means of service appears to be practical, in the opinion of the Peace officer, the Municipal Tag may be posted in a conspicuous place at the person's place of residence or Property at which the residence is located if service cannot otherwise reasonably be affected.
- 5.4 The Municipal Tag shall be in a form approved by the County Manager and shall state:
- (a) the name of the Person to whom the Municipal Tag is issued, if known;
 - (b) a description of the Property upon which the offence has been committed, if applicable;
 - (c) a description of the offence and the applicable Bylaw section;
 - (d) the appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;
 - (e) that the penalty shall be paid within thirty (30) days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - (f) any other information as may be required by the County Manager.
- 5.5 Where a contravention of this Bylaw is of a continuing nature, further Municipal Tags may be issued by a Peace Officer, provided that no more than one Municipal Tag shall be issued for each day that the contravention continues.
- 5.6 A Person to whom a Municipal Tag has been issued may pay the penalty specified on the Municipal Tag and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.
- 5.7 Nothing in this Bylaw shall prevent a Peace Officer from immediately issuing a Violation Ticket.

VIOLATION TICKETS

- 5.8 Where a Municipal Tag has been issued and the penalty specified on the Municipal Tag is not paid within the prescribed time, a Peace Officer is hereby authorized and empowered to issue a Violation Ticket.
- 5.9 Notwithstanding Section 5.8, a Peace Officer may immediately issue a Violation Ticket to any Person whom the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 5.10 A Violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the Provincial Offences Procedure Act.
- 5.11 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- (a) specify the fine amount established by this Bylaw for the offence in Schedule "A"; or
 - (b) require a Person to appear in court without the alternative of making a voluntary payment.
- 5.12 A Person who commits an offence may:
- (a) if a Violation Ticket is issued in respect of the offence; and
 - (b) if a Violation Ticket specifies the fine amount established by this Bylaw for the offence;
- make a voluntary payment equal to the specified fine.
- 5.13 When a clerk records in the Court records the receipt of a voluntary payment pursuant to this Bylaw and the Provincial Offences Procedure Act, the act of recording receipt of that payment constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.

PART 6 – OFFENCES and PENALTIES

OFFENCE

6.1 A Person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and is liable to a fine in an amount not less than that established in this Part and not exceeding \$10,000.00.

SPECIFIED PENALTIES

6.2 Without restricting the generality of Section 6.1, the fine amounts established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered are as set out in Schedule "A".

OWNER LIABLE

6.3 In this Part "owner" includes any Person registered as an owner at the Motor Vehicle Registry or the Land Titles office.

6.4 If a Vehicle is involved in an offence under this Bylaw, the owner of that Vehicle is guilty of an offence.

6.5 Section 6.4 does not apply if the owner of the Vehicle satisfies the court that, at the time that the Vehicle was involved in an offence:

- (a) the owner of the Vehicle was not driving the Vehicle, and
- (b) no other Person was driving the Vehicle with the owner's expressed or implied consent.

6.6 If material, debris, water or refuse escapes or is permitted to escape from a parcel of land adjacent to a Highway causing a contravention of this Bylaw, the owner of that parcel of land is guilty of an offence.

PART 7 - GENERAL

SEVERABILITY

7.1 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remaining Bylaw shall be maintained.

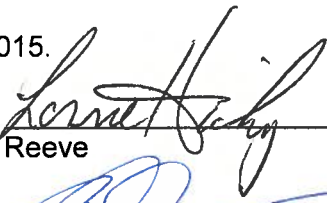
BYLAW SCHEDULES

7.2 Schedule "A" attached hereto shall form part of this Bylaw.


EFFECTIVE DATE

7.3 This Bylaw shall come into force effective January 1, 2016.

GIVEN first reading this 6th day of August, 2015.

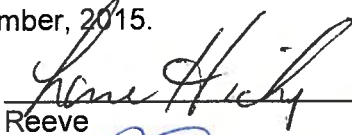


Reeve




Chief Administrative Officer

GIVEN second reading this 3rd day of September, 2015.

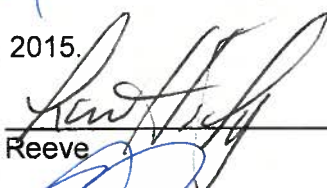


Reeve

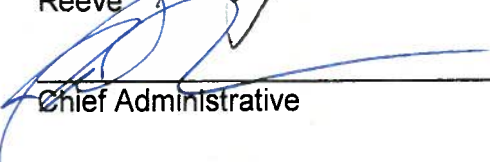


Chief Administrative Officer

GIVEN third reading this 1st day of October, 2015.



Reeve



Chief Administrative

SCHEDULE "A"

PENALTIES

Any Person that breaches a provision of this Bylaw may be subject to the following fines:

	Early Payment Amount (if paid within 15 calendar days after the issuance of the Municipal Tag)	Fine Payment Amount (if paid after 15 calendar days but within 30 calendar days after the issuance of the Municipal Tag)	Specified Penalty (if Violation Ticket is issued)
First offence	\$125.00	\$250.00	\$250.00
Second offence committed within twenty-four (24) months of the first offence	\$500.00	\$1,000.00	\$1,000.00
Any third and subsequent offence committed within twenty-four (24) months of the first offence	\$1,500.00	\$3,000.00	\$3,000.00

SCHEDULE "B"

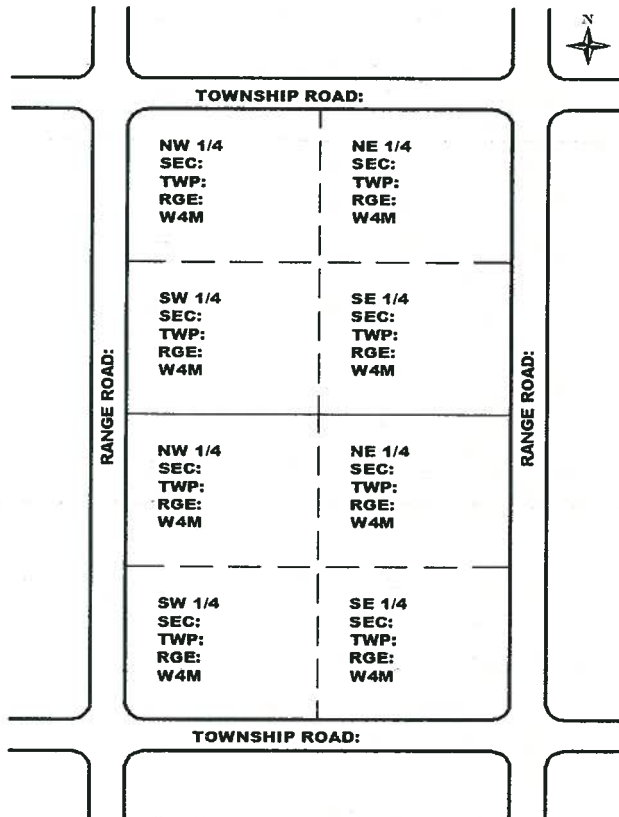
**Tracking Permit
Lethbridge County**

Owner / Operator	
Applicant:	Adjoining Land Description:
Affected Roadway:	Between Crossroads:
Commencement of Haul: (date)	Completion of Haul: (date)

Signage Locations (show on sketch): *Signage must be in place and visible for entire duration of permit. Failing to comply will result in an offence under Bylaw 1453.

All clean-up of tracked material will be completed by: (date)
 (Initial)

Instructions: Please indicate township and range roads, quarter section haul location(s), approach locations and signage locations. (Indicate clearly)



Print Name:	Signature of Owner/Operator:
Name & Title County Official:	County Official Signature:
Permit Issued Upon Signing:	Permit No.:

FOR OFFICE USE ONLY

Pre-Haul Inspection Completed: YES _____ NO _____ Date: _____	
Post Haul Inspection Completed: YES _____ NO _____ Date: _____	
If No, Reason Inspection Not Completed:	
Inspection Report Reviewed with Owner/Operator: YES _____ NO _____	
Follow-up Required by: (date)	All requirements met – Permit closed: (date)

Signature of Inspector: (All conditions met, Permit closed.) Date: _____
Signature: _____

*Permit must be kept on site and accessible for viewing by County Official at all times during the haul.