

**SMOKY LAKE COUNTY  
IN THE PROVINCE OF ALBERTA  
BYLAW NO. 1186-09**

**A BYLAW OF SMOKY LAKE COUNTY IN THE PROVINCE OF ALBERTA  
FOR THE PURPOSE OF RESPECTING THE USE OF ROAD RIGHT OF  
WAY UNDER THE DIRECTION, CONTROL AND MANAGEMENT OF  
SMOKY LAKE COUNTY.**

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WHEREAS, the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended or repealed and replaced from time to time, provides the Council of Smoky Lake County the authority to pass bylaws.

NOW THEREFORE the Council of Smoky Lake County pursuant to the authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

**SECTION 1: NAME OF THIS BYLAW**

1.1 This Bylaw may be cited as the Smoky Lake County “**Respecting Road Right of Way**”.

**SECTION 2: DEFINITIONS**

2.1 **Bylaw Enforcement Officer:** means a Bylaw Enforcement Officer appointed by the County pursuant to the *Municipal Government Act*, for the purpose of enforcing County bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Peace Officer.

2.2 **Council:** means the Municipal Council of Smoky Lake County.

2.3 **County:** means the Municipality of Smoky Lake County.

2.4 **Cultivate:** means to loosen or break up the soil.

2.5 **Designated Officer:** means a Bylaw Enforcement Officer and/or such other person as may be appointed by the Chief Administrative Officer from time to time.

2.6 **Dispose:** includes discharging, dumping, throwing, dropping or discarding or abandoning.

2.7 **Litter** means:

2.7.1 rubbish, refuse, garbage, waste materials, paper, packages, containers, bottles, cans or part thereof, or

2.7.2 any article, product, machinery, motor vehicle, building materials or other manufactured goods or part thereof, or

2.7.3 trees, shrubs, manure, sewage, straw, hay, soil, gravel, rock, dead animals or dead fowl.

2.8 **Municipal Government Act:** means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replace from time to time.

- 2.9           **Person:** includes a corporation, an individual, and the heirs, executors, administrators or other legal representatives of an individual.
- 2.10           **Road right of way** means:
- 2.10.1       a road allowance established by a survey, made under the Alberta Surveys Act, or
- 2.10.2       a road widening, road diversion, road, street, avenue, lane, alley, walkway, or other public right of way as shown on a plan of survey registered in the Northern Alberta Land Registration District.
- 2.11           **Shoulder:** means a portion of the road top, between the travel lane and the top of back of slope, leading to the ditch bottom. May vary in width from 2 meters on highways to 0.6 meters on gravel roads.
- 2.12           **Side Slope:** means a portion from the shoulder of the road to the bottom of the ditch portion.
- 2.13           **Violation Tag:** means a tag or similar document issued by the County pursuant to the *Municipal Government Act*.

### **SECTION 3: PROHIBITIONS**

- 3.1           No person shall dispose of, or cause to be disposed of, any litter on a road right of way.
- 3.2           No person shall cultivate, or cause to be cultivated, a road right of way or any portion thereof.
- 3.3           No person shall remove, cut or otherwise destroy trees or shrubs located on a road right of way.
- 3.4           No person shall remove any soil, sand or gravel from a road right of way.
- 3.5           No person shall grade, ditch or otherwise change the contour of a road right of way.
- 3.6           No person shall deposit snow upon the traveled portion, shoulder or side slope of any road right of way.
- 3.7           No person shall construct any improvement upon the road right of way.
- 3.8           No person shall deposit matter that will interfere with or plug up a culvert.

**SECTION 4: EXCEPTIONS**

- 4.1 This bylaw will exclude **Policy 62-17: License of Occupation of Road Allowance for Ranching and Farming Purposes**; and,
- 4.2 Where, considering the circumstances, this bylaw will exclude any other Permits or Authorizations so deemed by resolution of Council.

**SECTION 5: ENFORCEMENT**

- 5.1 Notwithstanding anything hereinbefore contained the Bylaw Enforcement Officer or Designated Officer may issue a violation tag to a person responsible for any of the actions or things prohibited within Section 3 inclusive of this Bylaw.
- 5.2 The County is not liable for damage caused:
- 5.2.1 by the presence, absence or type of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on a road, or
- 5.2.2 by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or things adjacent to or in, along or on a road that is not on the travelled portion of the road.
- 5.3 If the person does not comply with the directions within the specified time, as specified by the Bylaw Enforcement Officer or Designated Officer, the County may take action for the measures at the expense of the person, the said expense being recoverable in accordance with the provisions of this Bylaw and the provisions of the *Municipal Government Act*.
- 5.3.1 All costs incurred by Smoky Lake County and penalties issued as a result of any remedial action effected pursuant to **Bylaw No. 1186-09** will become the financial responsibility of the person and may be added to the person's tax roll of the property.

**SECTION 6: OFFENCES AND PENALTIES**

- 6.1 Any person who contravenes any of the provisions of this Bylaw is guilty of an offence and is liable to pay a penalty as follows:
- 6.1.1 For a first offence, issue of a violation tag in the amount of **\$150.00**.
- 6.1.2 For a second offence, issue of a violation tag in the amount of **\$300.00**.
- 6.1.3 For a third and any subsequent offence, issue of a violation tag in the amount of **\$500.00**.

- 6.2 Under no circumstances shall any person contravening any provision of this Bylaw be subject to a penalty of imprisonment.

**SECTION 7: VIOLATION TAGS**

- 7.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person, who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2 A Violation Tag shall be served upon such a Person personally, or in the case of a corporation, by serving the Violation Tag personally upon the Manager, Secretary or other Executive Officer, or Person apparently in charge of a branch office, by mailing a copy to such Person by registered mail, or the case of an individual, by leaving it with a Person on the premises who has the appearance of being at least eighteen (18) years of age.
- 7.3 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
- 7.3.1 the name of the Person;
  - 7.3.2 a description of the adjacent Property;
  - 7.3.3 the offence;
  - 7.3.4 the appropriate penalty for the offence as specified in this Bylaw;
  - 7.3.5 that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tags; and
  - 7.3.6 any other information as may be required by the Chief Administrative Officer.
- 7.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Bylaw Enforcement Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
- 7.5 Where a Violation Tag is issued pursuant to 6.1 of this Bylaw, the Person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the County Treasurer the penalty specified on the Violation Tag.

**SECTION 8: SEVERABILITY**

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

**SECTION 9: EFFECTIVE DATE**

This Bylaw shall come into effect after third reading and upon being signed.

READ a first time this 14<sup>th</sup> day of May, 2009.

READ a second time this 14<sup>th</sup> day of May, 2009.

READ a third and finally passed this 14<sup>th</sup> day of May, 2009.

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REEVE

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CHIEF ADMINISTRATIVE OFFICER