

CYPRESS COUNTY

BYLAW 2021/25

A BYLAW OF CYPRESS COUNTY IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING AND REMEDYING SOIL EROSION IN MUNICIPAL ROAD ALLOWANCES.

WHEREAS pursuant to Section 7 of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta (R.S.A.), 2000 and amendments thereto, provides that a 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;

WHEREAS pursuant to Section 18 of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta (R.S.A.), 2000 and amendments thereto, provides that a municipality has the direction, control and management of all roads within the municipal boundaries of Cypress County;

WHEREAS Cypress County wishes to remedy soil erosion that has accumulated in a road allowance which may impede the drainage and impact the road allowances within the municipal boundaries of Cypress County;

WHEREAS Cypress County wishes to impose fees and the collection of fees, as necessary, to remedy the soil erosion, in having it removed from the road allowances, at the land owner's expense within the municipal boundaries of Cypress County;

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

SECTION 1 - TITLE

1. This Bylaw may be cited as the Cypress County "Soil Erosion In County Road Allowances Bylaw".

SECTION 2 – DEFINITIONS

1. "Council" shall mean the Council of Cypress County.
2. "County" shall mean Cypress County.
3. "Road" includes:
 - i. Land that is shown as a road on a plan of survey that has been filed or registered in a land titles office;
 - ii. A statutory road allowance; and
 - iii. Land that is used as a highway, thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of or any of them, whether publicly or privately owned, that public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes;

- a. a sidewalk, including a boulevard adjacent to the sidewalk,
 - b. a ditch that lies adjacent to and parallel with the roadway, the ditch, and
 - c. if a road right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences or all the land between the fence and the edge of the roadway as the case may be;
- but does not include a place declared by the Province of Alberta not to be a highway, as defined in the Traffic Safety Act, R.S.A. 2000, Chapter T-6, as amended, or repealed, or replaced from time to time.

SECTION 3 – REGULATION

1. No person shall do or permit anything to be done that may interfere with the drainage of a road, or any portion thereof without prior written authorization from the County.
2. No person shall deposit or allow to be deposited any material or substance of any kind on a road, or any portion thereof without prior written authorization from the County.
3. No person shall allow soil to be eroded from property owned or occupied by the person and deposited onto a road, or any portion thereof.

SECTION 4 – ENFORCEMENT

1. A person who contravenes this Bylaw is guilty of an offence.
2. Without restricting any other power, duty or function granted by this Bylaw or the Municipal Government Act, the Chief Administrative Officer of the County, or his/her delegate, may enter onto lands and structures for the purposes of inspecting for compliance with the requirements of this Bylaw in accordance with s. 542 of the Municipal Government Act.
3. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine for each such day.
4. The County may issue a written order to the landowner/occupant of the land that is responsible for causing soil erosion in the County's road allowance and which is impacting or impeding the drainage ability of the County's ditch. The order shall specify that the landowner/occupant is to remedy the situation by hiring a contractor, that is acceptable to the County, to remove and properly dispose of any excess soil, and to restore the drainage ability of the ditch as directed by the County. The order shall state a time for which the landowner/occupant must comply with the directions specified. The order will state that if the landowner/occupant has not complied with the directions within the specified time, the County will take the necessary action or measure at the expense of the landowner/occupant.
5. The landowner/occupant that receives a written order may make a written request to Council to review the order within 14 days after the date in which the order is received. Otherwise, it is expected that the landowner/occupant shall follow the direction of the order within the timelines stated.

6. The County shall have the right, in its sole discretion to;
 - a. To remedy any soil erosion situation by removing and disposing of any excess soil, that is deposited into a road due to erosion, that in the County's opinion may impede or affect the drainage and performance of the ditch;
 - b. To take measures and perform the work to restore the drainage ability of the ditch as necessary;
 - c. To take the necessary steps to restore the road to the condition prior to the soil being deposited in the ditch.
7. The County has the ability to charge the landowner/occupant, responsible for the soil erosion, for all costs associated with the removal and disposal of the excess soil and for the restoration of the drainage within the ditch, as necessary, to reinstate the ditch's performance. The County will invoice the landowner/occupant to collect for the payment.
8. The rates for the County's equipment to remove and dispose of the soil and to perform any work to restore the drainage of the ditch, as needed, are set out in the County's Master Rates Bylaw and amendments thereto from time to time.
9. In the case of an emergent situation and the County's equipment is not available, a private contractor may be obtained by the County to perform the necessary work, as directed by the County, to remove and dispose of excess soil and restore the drainage and performance of the ditch as necessary. The billing of the private contractor's fees to the County will be charged back to the landowner/occupant that is responsible as a result of the soil erosion.
10. If the landowner/occupant fails to make the necessary payment to County for the amount that is invoiced to remedy the soil erosion removal and disposal, the County may add the amount that needs to be paid to the tax roll of the parcel land that is determined to be the cause of the soil erosion.
11. The remedies set out in this Section 4 are non-exhaustive and without limitation to any other remedies available to the County whether pursuant to the Municipal Government Act, RSA 2000, c M-26, any other applicable legislation, or otherwise.
12. A person shall not obstruct or hinder any person in the exercise or performance of the person's powers pursuant to this Bylaw.

SECTION 5 – PENALTIES

1. Any person who:
 - a. Violates any provision of this Bylaw;
 - b. Permits any act or thing to be done in contravention of or in violation of any provision of this Bylaw;
 - c. neglects to do or refrains from doing anything required to be done by the provisions of this Bylaw; or

- d. does any act or thing or omits any act or thing, thus violating any provision of this Bylaw;

is guilty of an offence under this Bylaw and upon a conviction is liable to a fine as outlined in Appendix ‘A’.

2. A Peace Officer is hereby authorized and empowered to issue a violation ticket to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw;
3. Under no circumstances shall any person contravening any provision of this Bylaw be subject to the penalty of imprisonment.
4. Where a Peace Officer believes on reasonable and probable grounds that a person has contravened any provision of this Bylaw they may commence proceedings by issuing a summons by means of a violation ticket in accordance with Part 2 of the Provincial Offences Procedure Act, Chapter P-34, RSA 2000.
5. The specified penalty in respect of a contravention of this Bylaw is the amount set out in Appendix “A” of this Bylaw.
6. Pursuant to Section 27(2)(d) of the Provincial Offences Procedure Act, if the summons issued by the Peace Officer under Section 7.4 so provides, the person named in a summons may make a voluntary payment in the specified amount set out in Appendix “A” of this Bylaw, and upon making the voluntary payment, that person is not required to appear before a justice to answer the summons.

**Bylaw 2021/XX – Soil Erosion In Municipal Road Allowances
Appendix ‘A’**

INFRACTION	FIRST OFFENCE	SECOND OFFENCE
Does any act to cause or permit soil to escape from private land into a ditch or onto a road.	\$500.00	\$1,000.00
Does any act likely to cause soil to or obstructs or impedes the drainage of a ditch.	\$500.00	\$1,000.00
Fails to comply with an Order issued by the County pursuant to Section 4 of this Bylaw.	\$500.00	\$1,000.00

Penalties for Third and Subsequent Offences. The penalty for a third offence shall be double the amount of the penalty for a second offence. The penalty for all subsequent offences shall be double the amount of the previous offence to a maximum of \$4,000.00 for each offence.

SECTION 6 – EFFECTIVE DATE

1. This Bylaw shall come into force upon third and final reading.
2. If any clause in this Bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole Bylaw.

Read a first time this 21st day of September, 2021.

Read a second time this 2nd day of November, 2021.

Read a third time and finally passed this 2nd day of November, 2021.

Original Signed
Reeve

Original Signed
Designated Officer