

**SMOKY LAKE COUNTY
IN THE PROVINCE OF ALBERTA
BYLAW NO. 1241-12**

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.

WHEREAS, the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended or repealed and replaced from time to time, provides the Council of Smoky Lake County the authority to pass bylaws.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2.8 **Municipal Government Act:** means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replace from time to time.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.
- 3.9 No person shall apply used or waste refined oil on road surfaces within County road right of way.

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. 1241-12** 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: REPEAL

9.1 That Bylaw NO. 1186-09, known as the "*Respecting Road Right of Way Bylaw*" be and is hereby repealed.

SECTION 10: EFFECTIVE DATE

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

READ a first time this 29th day of March, 2012.

READ a second time this 29th day of March, 2012.

READ a third and finally passed this 29th day of March, 2012.



REEVE



CHIEF ADMINISTRATIVE OFFICER

ALBERTA ENVIRONMENT

**GUIDELINES
FOR THE APPLICATION OF USED OIL
TO ROAD SURFACES**

1. The application of used or waste refined oil
 - In the manufacture of pavement
 - On any land for the purpose of road construction, repair or dust suppression is authorized subject to the requirements specified in the preceding document.
2. No person shall mix used or waste refined oil with any material in the manufacture of pavement, or dispose of any used or waste refined oil on any land for the purposes of road construction, repair, or dust suppression, unless the used or waste refined oil meets the specifications identified in table below.
3. A representative sample of the used oil should be collected and tested for the parameters identified in the table below.

Used or Waste Oil Specifications for Dust Suppression

Constituent/Property	Allowable Level
Flash point (closed cup)	61° C minimum
Total arsenic	5.0 mg/L maximum
Total cadmium	3.0 mg/L maximum
Total halogens (as Cl)	1000.0 mg/L maximum
Total chromium	6.5 mg/L maximum
Total lead	50.0 mg/L maximum
Total polychlorinated biphenyls	0.5 mg/L maximum
Total zinc	1000.0 mg/L maximum

4. No person shall apply used or waste refined oil on any land for the purposes of road construction, repair, or dust suppression unless:
 - (a) The used or waste refined oil meets the specifications of the preceding document
 - (b) The location of proposed application is more than 25 metres from surface water or a domestic water supply source
 - (c) The application rate will not result in a visible runoff of oil beyond the travelled portion of the road or other land
 - (d) The owner of the land or the person responsible for the road to which the oil is to be applied has given permission
 - (e) Application is limited to two times per calendar year.

Developed in April 1998/Updated in January 2001

3 File
Behind
Bylaw 6241-12

USED OIL AS DUST SUPPRESSANT

Alberta Environment (AENV) has regulated used lubricating oils and undrained lube oil filters since the early 1990's. In Alberta, used lube oil and undrained oil filters are classified as hazardous waste (Waste Type 201) or hazardous recyclables. As such, these wastes/recyclables have to be directed to approved hazardous waste management or recycling facilities.

Used oil can also be applied to roads as a dust suppressant, provided that it meets the quality criteria identified in the attached guidelines and that written permission is given by the authority or person responsible for the road. Most road oiling occurs in rural Alberta where alternative dust suppressants or recycling opportunities are not available. Properly done, road oiling of unpaved roads in rural areas is economical and effective in suppressing dust with minimal adverse health and environmental impacts.

Waste Oil as a Dust Suppressant

Used lube oil is a hydrocarbon-based dust suppressant used to control airborne particulate matter from unpaved roads. Used oil raises some environmental concerns due to its heavy metal content. However, the abandonment of lead as an additive to gasoline and as a constituent of solders has led to a significant drop in the concentration of this metal in used motor oils. Also, when compared with alternative dust suppressants, used oil is not alone in terms of its potential to create adverse environmental impacts when its quality or application to roads is not controlled.

Current Practices

Road oiling in Alberta uses about 10 per cent of all used oil available for recycling. This activity does not require an approval under the *Environmental Protection and Enhancement Act*. However, AENV has developed and provides interested parties with guidelines that identify quality and operational requirements when used oil is applied to roads for dust control. The responsibility for compliance rests with the producer of the used oil and the owner of the road on which the oil is to be applied. This owner is often the local municipality. The Alberta Energy and Utilities Board has a similar guideline applicable to oily wastes used as dust suppressants.

Most road oiling occurs in rural areas where alternative dust suppressants or recycling opportunities are not economically available. Properly done, road oiling of rural unpaved roads is economical and effective in suppressing dust with minimal adverse health and environmental impacts. Good dust suppressants are products for which the benefit from their use exceeds associated cost. This cost-benefit assessment is affected by the sporadic oversupply of used oil and, often, a decision on the use of a given dust suppressant is a difficult one based on balancing opposing factors.

Environmentally and Economic Impacts

There are alternative dust suppressant agents available in the market. However, they are often more expensive than used oil and also have the potential to adversely affect the environment.

Often, they are not as effective in controlling dust. The table below identifies and compares relevant factors associated with four of the most common dust suppressants available in the market.

Comparison of Dust Suppressants

Dust Suppressant	Advantages	Disadvantages	Quantity (L/km)	Cost/km.year
Water and wetting agents	No environmental impacts	- Short term - Frequent application - Erosion	6 000	\$17 000 to \$40 000
Calcium chloride	Effective in areas with relative humidity greater than 30%	- Water supplies - Soil salinization and reclamation - Plant life - Aquatic species	15 000	\$2 500 to \$7 000
Lignosulfonates	Effective	- Moderately toxic to plant life and rainbow trout	20 000	\$2 500 to \$7 000
Oil-based (asphalt emulsions, used oils, crude oil, etc.)	Effective	- May have adverse impact on vegetation, soil, or water supplies	15 000	up to \$7 000

Summary

A brief review of the information emphasizes the following:

- Road oiling is an effective, economic, and environmentally-sound means of controlling dust on unpaved roads.
- The supplier of the oil and the person responsible for the road should ensure compliance with AENV’s *Guidelines for the Application of Used to Road Surfaces*.
- When quality and proper procedures are neglected there is potential for adverse impacts regardless of the type of dust suppressant used.
- Alberta Environment does not interfere with the practice of road oiling, unless adverse health and environmental impacts are identified.