

BYLAW NO. 002-06

BEING A BY-LAW OF THE TOWN OF SMOKY LAKE IN THE PROVINCE OF ALBERTA

BEING A BYLAW OF THE TOWN OF SMOKY LAKE, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING USE OF THE CORRIDOR OWNED BY NORTH EAST MUNI-CORR LTD

WHEREAS s.7 of the Municipal Government Act (Alberta), as amended, provides that a Municipality may pass bylaws respecting the safety, health and welfare of people and the protection of people and property, and

WHEREAS the Traffic Safety Act, RSA 2000,c. T-6, authorizes a Municipal Council to pass Bylaws to regulate the operation of Off Highway Vehicles and regulate vehicle, animal and pedestrian traffic, within the Corporate Limits of the Municipality, and

WHEREAS the Traffic Safety Act, RSA 2000 Chapter T-6 Section 128(b) authorizes a Municipal Council to make a Bylaw setting the maximum speed limit with respect to property that is not a highway that is located within the Municipality and to which members of the public have access while operating Off Highway Vehicles.

NOW THEREFORE the Council of the Town of Smoky Lake in the Province of Alberta, duly assembled, enacts:

CITATION

1. a) This Bylaw may be cited as the Town of Smoky Lake "Corridor Regulation Bylaw".

DEFINITIONS

2. a) "Chief Administrative Officer" shall mean the individual who holds that position for the Town of Smoky Lake at any given time and includes any person authorized to act for and in the name of that individual.
- b) "Council" means the Council of the Town of Smoky Lake in the Province of Alberta.
- c) "Municipality." means the Town of Smoky Lake in the Province of Alberta.
- d) "Muni-Corr" shall mean North East Muni-Corr Ltd. a body incorporated in Alberta under Part 9 of the Companies Act of Alberta.
- e) "Hunting" shall mean the capturing or killing, or attempted capture or killing, of animals by means of traps, nets, firearms, bow and arrow, or other such similar means.
- f) "Peace Officer" shall mean a member of the Royal Canadian Mounted police, Municipal Police Service, Special Constable Service, Provincial Conservation Officer, Bylaw Enforcement Officer and the Municipality Chief Administrative Officer.
- g) "Corridor" shall mean the abandoned Railway Right-of-Way owned by North East Muni-Corr Ltd. and under the joint care and control of the Municipality. This shall include any "Rest stops" or "Staging areas".

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- h) "Usage Control Device" shall mean any sign, signal, marking or device placed, marked or erected under the authority of this Bylaw for the purpose of regulating, warning or prohibiting use of the Corridor.
 - i) "Trailer" means any device that is attached to or drawn by a Vehicle and includes machinery or equipment used in construction or farming.
 - j) "Motor Vehicle" shall mean a Motor Vehicle as defined in Section 1(1) of the Traffic Safety Act R.S.A. 2000-C.T.6.
 - k) "Off Highway Vehicle" shall mean an Off Highway Vehicle as defined in Section 117 of the Traffic Safety Act R.S.A. 2000 C.T-6.
- 12) "Weapon" means including, but not limited to, a rifle, shotgun, pistol, handgun, target pistol, air rifle, pellet gun, hunting bow, cross bow, sling shot, and paint ball gun.
3. Words importing the masculine gender only, include the feminine gender whenever the context so requires and vice versa.
4. Words importing the singular shall include the plural or vice versa whenever the context so requires.

REGULATION OF USE

5. Except as otherwise set out in this Bylaw Council hereby delegates to the Chief Administrative Officer the authority to regulate and control the use of the Corridor as defined in this Bylaw.
6. Unless required or permitted by this Bylaw or by a Usage Control Device, or in compliance with the directions of a Peace Officer, a Person shall not stop, park, or operate a Motor Vehicle, or, an Owner, permit his Vehicle to be stopped, parked or operated, on the Corridor.
7. Unless required or permitted by this Bylaw or by a Usage Control Device a Person shall not park or leave a Trailer on the Corridor or an Owner permit his trailer to be parked on the Corridor.
8. a) The Chief Administrative Officer is hereby delegated the authority to prescribe where Usage Control Devices, either permanent or temporary, are to be located. The Chief Administrative Officer shall cause such devices to be placed such that they are clearly recognizable in all reasonable light and weather conditions.
- b) Usage Control Devices authorized by the Chief Administrative Officer as delegated pursuant to s. 8(a) hereof, shall be deemed to have been made by bylaw of the Municipality and such person is to maintain a record of all such locations, which shall be open to public inspection during normal business hours.
- 9.1 a) No person shall make or place an obstruction of any kind in, upon or above the Corridor or place any building or structure of any nature in a manner that encroaches upon any portion of the Corridor unless permission has been granted by the Chief Administrative Officer and upon such terms and conditions as he deems necessary.
- b) Every person who fails to obtain permission or comply with the conditions attached thereto shall be guilty of an offence and shall, in addition to any other penalty, cause the removal of the obstruction or encroachment within 24 hours after being notified to do so by the Chief Administrative Officer. After the expiration of the said 24 hours, the Chief Administrative Officer may cause the removal of the obstruction or encroachment and such removal shall be at the expense of the person causing, placing or permitting the obstruction or encroachment of the Corridor.

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c) Where an obstruction or encroachment of any kind exists in, upon, or above any portion of the Corridor and, in the opinion of the Chief Administrative Officer it creates an unsafe condition, the Chief Administrative Officer shall be entitled to take such measures as are required for the protection of life or property.

9.2 a) No person, shall discharge any weapon on or over the Corridor.

9.3 Except as provided in Section 9.4 and Section 11, motor vehicles are not permitted on the Corridor.

9.4 Off Highway Vehicles are permitted to be operated on the Corridor provided they comply with the following rules of the road:

a) Registered in accordance with the Traffic Safety Act, RSA 2000, C.T-6

b) Insured, including liability insurance, in accordance with the Traffic Safety Act RSA 2000, C.T-6

c) Operated with consideration for the other users of the Corridor

d) Operated in such a manner so as to only cause minimal disturbance to persons residing adjacent to the Corridor

e) Operated in such a manner so as not to disturb, harass, injure or kill any livestock located adjacent to the Corridor

f) Operated at a speed, that considering the circumstances, is reasonable

g) Operated at a speed that is not in excess of the posted speed limit

h) Operated in a manner, that considering the circumstances, is not careless

i) Yielding the Right of Way to other users of the Corridor, who are not operating Off Highway Vehicles

j) Moving to the right side of the Corridor when encountering approaching Off Highway Vehicles

k) When crossing a Highway that intersects with the Corridor, following the rules laid out in the Traffic Safety Act, RSA 2000, C.T-6, Section 120(3)

l) Park in a manner so as not to obstruct the Corridor or its access points or intersections with any Highway, and not inconvenience or prevent the use of the Corridor by any other persons.

m) Follow all aspects relating to Off Highway vehicle use in accordance with the Traffic Safety Act, RSA 2000, C.T-6 and its regulations.

9.5 No person shall place, permit to be placed, or throw any substance, or thing of any kind, on the Corridor or property located adjacent to the Corridor.

9.6 No person shall climb, deface, or interfere with any structure, trees, protection system, or utility located on or adjacent to the Corridor.

9.7 No person shall willfully remove, throw down, deface, alter, damage or destroy a Usage Control Device, placed, marked or erected on, or adjacent to, the Corridor.

9.8 No person shall conduct himself or otherwise position himself on the Corridor in such a manner as to obstruct or inconvenience any other user of the Corridor.

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POWERS OF PEACE OFFICERS

10. a) Any Peace Officer is hereby authorized to remove or cause to be removed any Motor Vehicle or Trailer parked in contravention of this Bylaw.
- b) Any such Motor Vehicle or Trailer may be removed to a place designated by the Peace Officer where it will remain impounded until claimed by the owner thereof or his authorized agent.
- c) The Towing away of the Motor Vehicle or trailer shall be in accordance with the Towing and Impound Laws contained in the Traffic Safety Act, RSA 2000, C.T-6.
- d) In the event that an owner of a Motor Vehicle or Trailer does not claim such Motor Vehicle or Trailer, the storage and removal charges may be collected by the Tow Company pursuant to the provisions of the Traffic Safety Act, RSA 2000, C.T-6.

EXCEPTIONS

11. The prohibitions contained in Sections 8 and 9 of the Bylaw do not apply to:
 - a) Emergency Motor Vehicles and Off Highway Vehicles including, ambulance services, fire department or vehicles being operated by on duty Peace Officers
 - b) Motor Vehicles and Off Highway Vehicles used in conjunction with the servicing of public utilities including telephone systems, electric systems, natural gas systems and Cablevision systems.
 - c) Municipal and other government public works Motor Vehicles and Off Highway Vehicles.
 - d) Towing service Motor Vehicles.
 - e) Owners of land adjacent to the Corridor to whom a permit has been issued by the Municipality and/or North East Muni-Corr Ltd.
 - f) Any other individual to whom a permit has been issued by the Municipality and/or North East Muni-Corr Ltd.

PERMITS

12. a) To obtain a permit pursuant to Sub-Sections 11(e) and (f) of this Bylaw, an application must be made to Muni-Corr.
- b) Muni-Corr may refuse to grant the permit with such terms and conditions, as he deems necessary.
- c) Muni-Corr may grant the permit for a specified date or may allow a permit of indefinite duration.
- d) Muni-Corr may grant a permit for a Special Event for a specified date or may allow a permit of indefinite duration.
- e) Any applicant requesting a permit under subsection (a) hereof shall make an application in writing to Muni-Corr providing the following information:
 - (i) The description and registration information for the Vehicle or Trailer to be parked or operated on the Corridor.


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- (ii) The location of the Corridor the applicant wishes to access.
 - (iii) The date on which the applicant proposes to access the Corridor the applicant is requesting a permit of indefinite duration.
 - (iv) The purpose for which access to the Corridor is requested.
 - (v) Such other information as may be required.
13. Coincident with issuance of the permit, the applicant shall enter into an agreement to indemnify the Municipality and North East Muni-Corr Ltd. for any and all damages caused to the Corridor or any works made or done over, upon or under the same, as a result of the use of the Corridor pursuant to a permit.
14. Muni-Corr may in writing alter, suspend or revoke a permit whenever it is determined that:
- a) The permit was issued in error.
 - b) The permit was issued based on incorrect information supplied.
 - c) The area indicated on the permit is required by the Municipality for other purposes.
 - d) The permit is in violation of any Municipality bylaw or resolution.
15. Upon request by an applicant or permit holder and when it is determined by Muni-Corr that extenuating circumstances exist, Muni-Corr is hereby authorized to waive or alter any term of an agreement or permit required by this Bylaw.

PENALTIES

16. Except as otherwise provided herein, every person who contravenes any provisions of this Bylaw is guilty of an offence, and shall be liable on Summary Conviction to a fine of not more than one thousand dollars (\$1000.00) for a first offence and a fine of two thousand dollars (\$2000.00) for a second offence.
17. Every person who contravenes any provisions of this Bylaw, as enumerated in Schedule "A" herein, is guilty of an offence and shall be liable on Summary Conviction to the penalty specified therein for such offence.
18. An offence ticket shall be deemed to be sufficiently served:
- a) If served personally on the accused.
 - b) If mailed, by ordinary mail, to the address of the registered owner of the Motor Vehicle, Off Highway Vehicle or Trailer concerned, or to the person concerned.
 - c) If attached to or left securely and visible upon the Motor Vehicle, Off Highway Vehicle or Trailer in respect of which the offence is alleged to have been committed.

TRANSITION SECTION

19. All Usage Control Devices which are in place on the effective date of this Bylaw shall be deemed to be valid Usage Control Devices for the purposes of this bylaw until removed.
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REPEAL


20. That Bylaw 775/02 known as the "Railway Right of Way Regulation" be and is hereby repealed.

This Bylaw comes into effect on the date of final passing.

READ A FIRST TIME IN COUNCIL THIS 17th DAY OF JANUARY, 2006.



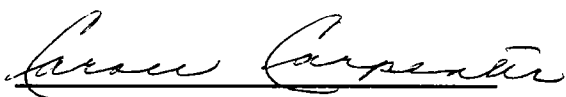
CAROLE CARPENTER, MAYOR



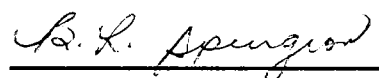
BARBARA L. SPURGEON,
Chief Administrative Officer

READ A SECOND TIME IN COUNCIL THIS 7th DAY OF FEBRUARY, 2006.

READ A THIRD AND FINAL TIME, WITH THE UNANIMOUS CONSENT OF ALL COUNCILLORS PRESENT, THIS 7th DAY OF FEBRUARY, 2006.



CAROLE CARPENTER, MAYOR



BARBARA L. SPURGEON,
Chief Administrative Officer