



VULCAN COUNTY

Vulcan - Alberta

BYLAW 2021-028

Being a bylaw of Vulcan County in the Province of Alberta to prohibit the escape of irrigation water into or onto public highways, roads or road allowances by irrigation installations on land adjacent to such public highways, roads or road allowances within Vulcan County.

WHEREAS The *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended, provides that a Council of a municipality may pass Bylaws regulating the control and management of highways, roads, lanes and road allowances within its boundaries and to impose fines, exclusive of costs for contravention of this bylaw.

AND WHEREAS the *Public Highways Development Act*, Chapter P-38, prohibits any person from causing or permitting water used or intended to be used for irrigation purposes to escape from irrigated land into a highway ditch or into or on a highway; and further provides that any person who contravenes the provision will be guilty of an offence and upon conviction be subject to the penalty set therein,

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

1. This bylaw may be called the "Irrigation Bylaw".

2. Definitions

2.1. In this Bylaw:

- (a) "**CAO**" means the individual appointed as Vulcan County's Chief Administrative Officer in accordance with the MGA;
- (b) "**Council**" means the Council of Vulcan County
- (c) "**County**" means the municipal corporation of Vulcan County and the area within its jurisdictional boundaries, as the context requires;
- (d) "**MGA**" means the *Municipal Government Act*, R.S.A. 2000 c.M-26, as amended or replaced from time to time;
- (e) "**Officer**" means Vulcan County's Director of Protective Services, a Vulcan County Development Officer, or a Vulcan

County Community Peace Officer who is authorized to enforce Bylaws;

- (f) **"Owner"** means a person registered under the Land Titles Act, R.S.A. 2000, c.L-4 as being the Owner of Property; a Person who is recorded as the owner of Property on the County's assessment roll for the Property; a Person who has purchased and has yet to become the registered Owner of Property; a Person controlling Property under construction; and/or a Person who is the lawful Occupant of Property;
- (g) **"Person"** means any individual, firm, partnership, association, corporation, company, society or other legally constituted organization;
- (h) **"Road"** means any thoroughfare, highway, road, lane, trail or open road allowance under the jurisdiction of the Municipality.
- (i) **"Violation Ticket"** means a ticket issued under Part 2 of the *Provincial Offences Procedures Act*;

3. General Prohibitions

- 3.1. No Owner shall operate an irrigation system in a manner which allows water to enter into or onto any road ditch or into or onto a road within the boundaries of the County.
- 3.2. No Owner shall operate an irrigation storage system in a manner which allows water to escape the confines of the storage system and enter into or onto any road ditch or into or onto a road within the boundaries of the County.

4. Exclusions and Exemptions

- 4.1. The provisions of section 3 of this Bylaw shall not apply to the following situations or activities:
 - (a) County activities;
 - (b) Any operation or activity operating under the approval of the County.

5. Enforcement

- 5.1. An Officer for the purpose of this Bylaw may:
 - (a) Investigate and/or enforce this Bylaw upon being notified or upon seeing an alleged infraction.
 - (b) Enforce any part of this Bylaw, by written order, within the boundaries of the County by requiring the Owner to remedy the infraction in such a manner as the County may direct, including any condition on their land or with their system, or damage to the County road caused by the contravention of this Bylaw; and
 - (c) In the event, the County has to repair the damage to the road caused by the escape of water, the repair costs for

the damage for the road will be charged to the Owner, which costs if they remain unpaid 30 days from the issuance of a notice of costs, shall be added to and form part of the taxes on the lands, in accordance with Section 549 (1) (c) and 553 (1) (c) of the *Municipal Government Act*.

- 5.2. Where an Officer believes a Person has contravened any provision of this Bylaw, they may:
 - (a) Issue a Violation Ticket.

6. Violation Tickets

- 6.1. A Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a fine in an amount not less than established in this Bylaw. Without restricting the generality of this section, the following fine amounts are established for use on Violation Tickets if a voluntary payment option is offered:
 - (a) The specified penalty for the offense as set out in Schedule "A";
- 6.2. An Officer is hereby authorized and empowered to issue a Violation Ticket to any Person whom the Officer has reasonable grounds to believe has contravened any provision of this Bylaw. A Violation Ticket issued with respect to a violation of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*. If a Violation Ticket is issued in respect to an offence, the Violation Ticket may specify the fine amount established by this Bylaw for the offence, or require a Person to appear in court without the alternative of making a voluntary payment.
- 6.3. A Person who commits an offence may: if a Violation Ticket is issued in respect of the offense; and if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;
 - (a) Make a voluntary payment to a Clerk of the Provincial Court, on or before the initial appearance date indicated in the Violation Ticket, the specified penalty set out in the Violation Ticket.
- 6.4. Where a Clerk of the Provincial Court 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 constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- 6.5. Nothing in this Bylaw shall be construed to limit or hinder the ability of the County to enforce this Bylaw by way of an order issued pursuant to Section 545 or 546 of the *Municipal Government Act*.

7. Severability

7.1. Every provision of this Bylaw is independent of all other provisions. If any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

8. Effective Date

8.1. This Bylaw comes into force when it has received third and final reading.

Read a first time on this 14th day of July, 2021.
Read a second time on this 14th day of July, 2021.
Read a third time and finally passed on this 14th day of July, 2021.

[original signed]

Jason Schneider, Reeve

Nels Petersen, CAO

Schedule "A"

Specified Penalties

Section	Offense	Specified Penalty
3.1	First Offense	\$250
6.1	Second Offense	\$500
6.1	All Subsequent Offenses	\$1000
3.2	Failure to repair or remedy storage system deficiencies	\$25/day
5.1(c)	County repair of damaged Road	Cost Recovery