

BYLAW NO. 12/2020

**BEING A BYLAW OF THE
MUNICIPAL DISTRICT OF PEACE NO. 135
IN THE PROVINCE OF ALBERTA**

For the purpose of regulating work and telecommunication equipment installation on Municipal District road rights-of-way and municipal facilities.

WHEREAS, pursuant to Sections 7, 8, 16(1), 18(1), 60(1) and 61 of the *Municipal Government Act* and other enactments, a municipality may pass bylaws dealing with the use and management of its property, permits required, fees and enforcement;

AND WHEREAS, Section 43(3) of the *Telecommunications Act* S.C. 1993 c. 38 prohibits telecommunication carriers from constructing transmission lines on, over, under or along a highway or other public place within a municipality without the municipality's consent.

NOW THEREFORE, the Council of the Municipal District of Peace No. 135, in the Province of Alberta, duly assembled, enacts as follows:

General:

1. This Bylaw shall be cited as the "**Regulation of Telecommunications Work and Equipment Installation on Municipal Lands and Facilities Bylaw**".

PART I - PURPOSE, DEFINITIONS AND INTERPRETATION

Purpose:

2. The purpose of this bylaw is:
 - (a) to require every Person proposing to carry out Work for the purpose of installation, maintenance, repair, replacement, extension or operation of Equipment in, on or above Municipal Rights-of-Way and/or to attach to municipal facilities to obtain the Municipal District's consent to any such Work and to apply to the Municipal District for the required Permits;
 - (b) to provide the Municipal District with information on the type and location of Equipment situated in, on or above Municipal Rights-of-Way and/or attached to municipal facilities so that the Municipal District can manage its rights-of-way and facilities effectively and efficiently;
 - (c) to establish Permit and other fees to compensate the Municipal District for the installation, maintenance, repair, replacement, extension, or operation of Equipment as well as the ongoing presence of Equipment in, on or above Municipal Rights-of-Way; and
 - (d) to protect the Municipal District from costs, damages or liability associated with the installation, maintenance, repair, replacement, extension, or operation of Equipment in, on or above Municipal Rights-of-Way by any Person.

Definitions:

3. In this bylaw, unless the context otherwise requires:
 - (a) "**Alignment**" means a location specified or approved by the Municipal District's Chief Administrative Officer for the location of Equipment in, on or above Municipal Rights of Way;
 - (b) "**Applicant**" means a Person applying for a Permit;
 - (c) "**Chief Administrative Officer**" or "**CAO**" means the Chief Administrative Officer of the Municipal District or his/her delegate;
 - (d) "**Council**" means the council of The Municipal District of Peace No. 135;
 - (e) "**Emergency Work**" means Work that must be completed immediately because health, safety or the provision of essential services is endangered;

(f) **“Equipment”** means any poles, cables, pipes, conduits, pedestals, antennas, vaults, support structures or other similar facilities or structures;

(g) **“Fees”** means the Municipal District’s Use and Occupation Fees set out in the current Fees and Charges Bylaw, which may be amended from time to time, and other bylaws of the Municipal District or the corresponding fees and other consideration for the privilege of occupying Municipal Rights-of-Way set out by the mutual agreement of the parties to a Municipal Access Agreement;

(h) **“Municipal Access Agreement”** means an agreement approved by Council that contains one or more provisions for the granting of consent by the Municipal District to a Person to do Work in, on or above Municipal Rights-of-Way upon compliance by such Person with all other applicable Municipal District requirements;

(i) **“Municipal District”** means the municipal corporation of The Municipal District of Peace No. 135;

(j) **“Municipal Rights-of-Way”** means the surface of, as well as the spaces above and below, the highways, roads, road allowances, streets, lanes, boulevards, bridges, public utility lots, public water or other public places within the jurisdiction of the Municipal District and under the authority of the Municipal District, excluding land for which a certificate of title is registered in the name of the Municipal District in the Land Titles Office;

(k) **“Permit”** means any one of the permits and any corresponding applications, in a form set out by the Municipal District, as amended from time to time at the discretion of the CAO, and in other bylaws of the Municipal District, as further modified by the CAO in any specific case;

(l) **“Permit Fees”** means the fees charged upon the application for a Permit set out in the current Fees and Charges Bylaw which may be amended from time to time;

(m) **“Person”** includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the Municipal District or its legal representatives;

(n) **“Resolution”** means a resolution passed by Council granting consent for a Person to do Work in, on or above Municipal Rights-of-Way upon compliance by such Person with all terms and conditions that Council may determine;

(p) **“Work”** means the installation, maintenance, repair, replacement, extension, or operation of any Equipment in, on or above Municipal Rights-of-Way.

PART II - REQUIREMENT FOR THE CONSENT OF THE MUNICIPAL DISTRICT

Consent:

4. No Person shall do any Work in, on or above Municipal Rights-of-Way unless the Person has:
 - (a) obtained the consent of the Municipal District or is acting on behalf of a Person who has obtained consent of the Municipal District by way of a Municipal Access Agreement and/or a License Agreement, attached as Schedule A and Schedule B to this bylaw;
 - (b) obtained all applicable Permits required by the Municipal District; and
 - (c) paid all applicable Permitting Fees required by the Municipal District.
5. A Person whose Equipment is situated in, on or above Municipal Rights of Way or attached to a Municipal Facility:
 - (a) shall do whatever Emergency Work is necessary to end a situation in which the health, safety or the provision of essential services is endangered; and
 - (b) may do Emergency Work without the prior consent of the Municipal District, if it is not practicable to obtain such consent prior to the commencement of the Emergency Work, provided that the Person, without delay, notifies the CAO of the occurrence of the Emergency Work and provides such additional information concerning the Emergency Work and its consequences as the CAO requests, acting reasonably.

PART III - APPLICATION FOR PERMIT

Permit Application Procedure:

6. Every Applicant shall provide all of the information required for a Permit and pay the applicable Permitting Fees at the time that the application for the Permit is made. An application for a Permit that does not meet these requirements shall be deemed to be incomplete. Every Applicant for a Permit must provide all information required for a Permit at the time that the application for the Permit is made or as specified in the Municipal Access Agreement and/or License Agreement.
7. Upon receipt of an application for a Permit and the payment of the Permitting Fees, the CAO will issue the required Permit subject to such terms and conditions as the CAO deems appropriate.
8. The terms and conditions contained in Schedule C are deemed to be included in every Permit for Work in, on or above Municipal Rights-of-Way, through a Municipal Access Agreement unless otherwise specifically excluded.
9. The CAO may reject an application for a Permit where:
 - (a) the application for the Permit is incomplete;
 - (b) the full payment of all applicable Permitting Fees and other associated Fees has not been made; or
 - (c) any conditions precedent to granting the Permit have not been met.
10. The CAO will provide an Applicant whose application for a Permit is refused with written reasons for the refusal at the time that the Applicant is advised of the refusal.

PART IV - COMPLIANCE WITH MUNICIPAL DISTRICT CONSENT AND PERMITS

11. Every Person who obtains the consent of the Municipal District to do Work in, on or above Municipal Rights-of-Way and/or on Municipal Facilities shall comply with the terms and conditions of that consent.
12. Every Person who obtains a Permit shall comply with the terms and conditions of that Permit, including, without limitation, terms and conditions restricting Work:
 - (a) in, on or above Municipal Rights-of-Way to the alignments or other portion of the Municipal Rights-of-Way for which authorization is granted in the Permit; and/or
 - (b) on Municipal Facilities for which authorization is granted in the Attachment Permit.

PART V - USE AND OCCUPATION FEES

13. Upon request by the Municipal District, every Person whose Equipment is situated in, on or above Municipal Rights-of-Way and/or on Municipal Facilities shall pay the applicable Fees in respect of the period of time during which the Equipment is situated in, on or above the Municipal Rights-of-Way, unless specified otherwise in a Municipal Access Agreement, or attached to Municipal Facilities, unless specified otherwise in a License Agreement.
14. Payment of the Fees does not constitute a condition precedent for the granting of the Municipal District's consent to Work in, on or above Municipal Rights-of-Way and/or on Municipal Facilities or for the granting of a Permit.

PART VI - PENALTIES

15. A Person who contravenes a provision of this bylaw is guilty of an offense.
16. A Person who is found guilty of an offence is liable to a fine in an amount not less than that established by this bylaw, and not exceeding \$10,000.00.

17. A Person who commits an offence may:
- (a) if a Violation Notice is issued by the CAO in respect to the offence; and
 - (b) if the Violation Notice specifies the fine amount established by this bylaw for the offence; make a voluntary payment equal to the specified fine.
18. 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.

PART VII - GENERAL

Charges for additional services requested:

19. A Person who requests Municipal District services including, but not limited to, traffic barricading and surface restoration, Facility inspections, or electrical code inspections must pay for those additional Municipal District services at the charge out rate schedules current at the time the service is requested.

Inspections and delegation:

20. The CAO may carry out whatever inspections are reasonably required to determine compliance with this bylaw.

21. The CAO may delegate any of his or her powers, duties or functions under this bylaw to an employee of the Municipal District, who may delegate and authorize further delegations to any other Municipal District employee or contractor upon the approval of the CAO.

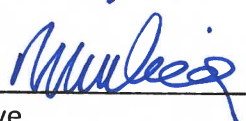
Severability:

22. That should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.

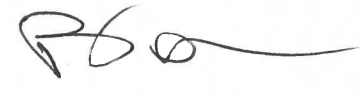
Effective Date:

23. This Bylaw shall come into force and effect on the third and final reading.

Read a first time this 12 day of January, 2021.




Reeve




Chief Administrative Officer

Read a second time this 12 day of January, 2021.

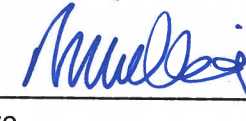


Reeve



Chief Administrative Officer

Read a third time this 12 day of January, 2021.



Reeve



Chief Administrative Officer