

CONSOLIDATION OF A BYLAW OF THE CITY OF LETHBRIDGE
TO REGULATE AND CONTROL WEEDS

WHEREAS *The Weed Control Act* and Regulation set out provincial requirements regarding the control or destruction of noxious and prohibited noxious weeds, and the management and enforcement of same.

AND WHEREAS, section 9(1) of *The Weed Control Regulation 19/2010*, as amended, provides that:

- 9(1) the local authority of a municipality may designate a plant as a noxious weed or a prohibited noxious weed, within the municipality, by bylaw.

AND WHEREAS section 7 of the *Municipal Government Act* states:

“A council may pass bylaws for municipal purposes respecting the following matters: ... (a) the safety, health and welfare of people and the protection of people and property;...”,

AND WHEREAS for the health and welfare of people and the protection of people and property, the City of Lethbridge has determined there is a need to designate certain plants as noxious weeds, which are in addition to the plants listed in the Act and Regulation,

AND WHEREAS section 26(1) of *The Weed Control Act S.A. 2008 c. W-5.1*, as amended, provides that:

- 26(1) If a highway is owned or occupied by a municipality, the local authority may
 - (a) in respect of an improvement district or a special area, by order, or
 - (b) in respect of all other municipalities, by bylaw,

provide that for the purposes of this Act a person is the owner or occupant of the highway to the highway’s midpoint to the extent that the person is the owner or occupant of land that borders the highway.

AND WHEREAS the City of Lethbridge has determined the need to control or destroy said noxious or prohibited noxious weeds both on public property and private property;

AND WHEREAS the Minister of Agriculture has requested that after second reading of this Bylaw, that it be forwarded to the office of the Minister of Agriculture for final approval;

NOW THEREFORE, THE COUNCIL OF THE CITY OF LETHBRIDGE, IN THE PROVINCE OF ALBERTA, HEREBY ENACTS AS FOLLOWS:

INTERPRETATION
AND DEFINITIONS

1. This Bylaw shall be cited as "The Weed Control Bylaw".
2. In this Bylaw:
 - (a) "*Act*" means the Alberta *Weed Control Act* S.A. 2008 c. W-5.1
 - (b) "*Regulation*" means the Weed Control Regulation 19/2010
 - (c) "*Highway*" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes
 - (i) a sidewalk, including a boulevard adjacent to the sidewalk,
 - (ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and
 - (iii) if a highway 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 *Traffic Safety Act* regulation not to be a highway;
 - (d) "*Inspector*" means a Bylaw Enforcement Officer or person appointed by the City to enforce this bylaw or the Alberta *Weed Control Act* and Regulation.
 - (e) "*Local Authority*" means the council of the municipality;

PLANT
DESIGNATION

3. Any weed listed as Noxious in the Weed Control Regulation and Schedule "A" of this Bylaw is designated as noxious within the municipality.
4. Weeds listed as Prohibited Noxious in the Weed Control Regulation are designated as prohibited noxious within the municipality.

OCCUPANT OR OWNER OF LAND

5. Pursuant to section 26 of the Act, the occupant or owner of any land within the boundaries of the City of Lethbridge, shall for purpose of the Act and Regulation, and this bylaw, be considered to be the occupant of that portion of any Highway that lies between the boundary of his land and the midpoint line of the Highway.

CONTROL OF NOXIOUS WEEDS

6. The occupant or owner of land shall control a noxious weed that is on land he owns or occupies, including that portion of a Highway that lies between the boundary of his land and the midpoint line of the Highway.

DESTRUCTION OF PROHIBITED NOXIOUS WEEDS

7. The occupant or owner of land shall destroy a prohibited noxious weed that is on land the person owns or occupies, including that portion of a Highway that lies between the boundary of his land and the midpoint line of the Highway.

BYLAW OFFICERS ARE INSPECTORS

8. In accordance with section 7 of the Act, pursuant to this bylaw, and pursuant to Ministerial approval, Council appoints City bylaw officers to be Inspectors under the Act to enforce and monitor compliance with the Act, the Regulation and this bylaw, within the municipality.

AUTHORITY OF INSPECTORS

Obstruction of inspector

9. A person shall not wilfully obstruct or delay an inspector in the exercise of the inspector's duties or powers to enforce and monitor compliance with this Act.

Entry and inspection power

10. An inspector may enter land or inspect land or personal property at a reasonable time
 - (a) to monitor compliance with this Act, including making inquiries, taking samples or performing tests, or
 - (b) to enforce an inspector's notice, local authority's notice or Minister's notice in accordance with [section 18](#).
11. An inspector shall not enter a building unless the owner or occupant of the land on which the building is situated
 - (a) consents, or
 - (b) has been given a written notice.
12. Subsection (2) does not apply if the building is, or is part of, a seed-cleaning facility, grain-handling facility or auction market.
13. An inspector shall not enter a private residence unless the occupant of the land consents.
14. A written notice under subsection (2)(b) must
 - (a) name a reasonable time of entry, and
 - (b) be given at least 24 hours before the time of entry.

NOTICES

Inspector's notice

15. If an inspector finds non-compliance with this Act, an inspector may give an inspector's notice in writing requiring compliance
 - (a) in respect of land, to the occupant of the land and to the owner of the land, and
 - (b) in respect of personal property, to the owner of the personal property.
16. If an inspector finds prohibited noxious weeds that have not been destroyed, the inspector shall give an inspector's notice requiring the prohibited noxious weeds to be destroyed.

Contents of inspector's notice

17. An inspector's notice must direct the method, subject to the regulations, and time for compliance with this Act.

18. The notice may contain directions, including limiting the use of land, for the year in which it is given and the following year.
19. The notice must not require the destruction of crops unless in the inspector's opinion the destruction of crops is necessary to control noxious weeds or destroy prohibited noxious weeds.
20. The notice must not require the destruction of more than 20 acres of growing crops unless the local authority of the municipality in which the crops are growing has consented in writing.
21. Subsection (4) does not apply if the growing crop
 - (a) does not have a significant commercial value, or
 - (b) is a crop of noxious weeds or prohibited noxious weeds.

Local authority's notice

22. A local authority may give a local authority's notice to control noxious weeds and to destroy prohibited noxious weeds to the owners and occupants of land in a subdivided area that does not exceed 20 acres.
23. The notice may direct the method, subject to the regulations, and the time for the destruction of the weeds.
24. The notice may contain directions for the year in which it is given.

Compliance with notice

25. A person given a notice under this Part in accordance with [section 24](#) shall, subject to the right to appeal an inspector's notice or a local authority's notice, comply with the notice.
26. If a notice of appeal is filed, a notice is stayed until
 - (a) the appeal is disposed of, and
 - (b) a review by the Minister under [section 20](#) is completed or the time to apply for a review has expired.
27. If there is a conflict between notices given under this Act,
 - (a) a Minister's notice prevails over a local authority's notice or an inspector's notice, and
 - (b) an inspector's notice prevails over a local authority's notice.

Enforcement of notice

28. An inspector, or any person authorized by an inspector, may take any action that the inspector determines is necessary to fulfil a requirement of a notice given under this Part that has not been complied with when
- (a) in respect of an inspector's notice or a local authority's notice,
 - (i) the appeal period in the regulations has expired or the appeal has been determined, and
 - (ii) the request for review period in the regulations has expired or the request has been considered,
 - or
 - (b) in respect of a Minister's notice, a court order referred to in [section 16](#) has been served on the person to whom the notice was directed.

APPEAL OF INSPECTOR'S NOTICE OR LOCAL AUTHORITY'S NOTICE

Appeals

29. A local authority shall establish, at least annually, an independent appeal panel to determine appeals of inspector's notices, local authority's notices and debt recovery notices.
30. A person who is given an inspector's notice, local authority's notice or debt recovery notice may, in accordance with the regulations, appeal it to an appeal panel.
31. The appeal panel may confirm, reverse or vary the inspector's notice, local authority's notice or debt recovery notice.

Review

32. An appellant may, in accordance with the regulations, request a review by the Minister of a decision of an appeal panel.
33. The Minister may confirm, reverse or vary the decision of the appeal panel and the decision of the Minister is final.

RECOVERY OF INSPECTOR'S EXPENSES

Inspector's notices and local authority's notices

34. Expenses incurred by an inspector enforcing an inspector's notice or a local authority's notice are a debt due to the local authority by the person subject to that notice.

35. The chief administrative officer shall give a debt recovery notice to the debtor
 - (a) demanding recovery of the debt due, including a statement of expenses, and
 - (b) advising of the debtor's right to appeal the debt recovery notice.
36. A local authority may recover the debt due in accordance with subsection (4) from any person who is given a debt recovery notice if
 - (a) the person has agreed in writing to repay the debt due,
 - (b) the person's rights of appeal and review of the debt recovery notice under [sections 19](#) and [20](#) have expired, or
 - (c) the appeal and review of the debt recovery notice have been determined.
37. A local authority may recover the debt due from any person who is given a debt recovery notice in either or both of the following manners:
 - (a) in the same manner as property taxes against land to which the inspector's notice or local authority's notice relates;
 - (b) by filing a certificate with the clerk of the Court of Queen's Bench at any judicial centre certifying the amount owing.
38. A certificate filed under subsection (4)(b) becomes an order of the Court of Queen's Bench and may be enforced as a judgment of that court.
39. A certificate filed under subsection (4)(b) becomes an order of the Court of Queen's Bench and may be enforced as a judgment
40. Bylaw 3595 and amendments thereto is hereby repealed.
41. This Bylaw shall come into effect on the date it is approved by the Minister of Agriculture pursuant to Section 9 of *The Weed Control Act*. (May 16 2017)

SCHEDULE "A"
NOXIOUS WEEDS

Flixweed - *Descurainia sophia*

Goat's-Beard - *Tragopogon dubius*

Lamb's Quarters - *Chenopodium album*

False Ragweed – *Iva xanthifolia*

Kochia – *Brassica scoparia*

Prickly Lettuce – *Lactuca serriola*

Redroot Pigweed - *Amaranthus retroflexus*

Round-leaved Mallow - *Malva rotundifolia*

Stinkweed - *Thlaspi arvense*