



Province of Alberta

# **HIGHWAYS DEVELOPMENT AND PROTECTION ACT**

Statutes of Alberta, 2004  
Chapter H-8.5

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Highways Development and Protection Act* that are filed as Alberta Regulations under the Regulations Act

<b>Alta. Reg.</b>	<i>Amendments</i>
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#### **Highways Development and Protection Act**

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# HIGHWAYS DEVELOPMENT AND PROTECTION ACT

## Chapter H-8.5

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Interpretation**

**1(1)** In this Act,

- (a) “centre point of the intersection” means the point where the centre line of the through part of a highway meets the centre line of, or the centre line of the prolongation of, another highway that intersects or meets the highway;
- (b) “construction” means the construction or reconstruction of a highway and the doing of whatever other work is necessary to put a highway in a condition for use by vehicles, but does not include maintenance;
- (c) “controlled highway” means a controlled highway within the meaning of section 12;
- (d) “controlled street” means
  - (i) in the case of a city, a highway designated as a controlled street in the city’s transportation system bylaw under section 33(2)(b),
  - (ii) in the case of a specialized municipality in respect of which the Minister has given a notice under section 37, a highway designated as a controlled street under section 33(2)(b), and
  - (iii) in the case of an urban municipality within the meaning of section 24(c), a street designated as a controlled street in a bylaw under section 25;
- (e) “council” means
  - (i) a council within the meaning of the *Municipal Government Act*,

- (ii) with respect to a special area, the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the *Special Areas Act*, and
- (iii) with respect to a Metis settlement, the settlement council;
- (f) “Department” means the Minister’s Department;
- (g) “electric distribution line” means a power line carrying less than 69 kW of electricity;
- (h) “electric transmission line” means a power line carrying 69 kW of electricity or more;
- (i) “forestry road” means
  - (i) a road designated as a forestry road by the Minister under section 6 or under the *Public Highways Development Act*, and
  - (ii) a road that was designated as a forestry road by the Minister of Lands and Forests before June 25, 1975 if the designation is subsisting on the coming into force of this Act;
- (j) “former Act” means
  - (i) the *Public Highways Development Act* and any of its predecessors, and
  - (ii) the *City Transportation Act*;
- (k) “freeway” means a multi-lane controlled highway or controlled street that has been designated as a freeway under section 4 or 33;
- (l) “highway”, “road” or “street”, except in section 38.1, means land that is authorized by a highway authority to be used or surveyed for use as a public highway, road or street, and includes a bridge forming part of a public highway, road or street and any structure incidental to the public highway, road or street;
- (m) “highway authority” means
  - (i) the Minister, in respect of highways subject to the Minister’s direction, control and management,

- (ii) an urban municipality, in respect of highways subject to its direction, control and management, or
- (iii) a rural municipality, in respect of highways subject to its direction, control and management;
- (n) “intersection” means the place where 2 or more highways join or cross;
- (o) “maintenance” means the preservation and repair of a highway and any other work necessary to keep the highway in serviceable condition;
- (p) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (q) “owner”, with respect to land, means
  - (i) a person registered in a land titles office as the owner of an estate in fee simple or a life estate in land,
  - (ii) a purchaser of land whose interest as purchaser is recorded on the certificate of title for that land or in a registered caveat relating to that land,
  - (iii) a person registered in the Metis Settlements Land Registry as the owner of Metis title in land,
  - (iv) a purchaser of Metis title in land whose interest as purchaser is recorded on the Metis title register for that land,
  - (v) a tenant or a person who is in possession or occupation of land, and
  - (vi) in the case of Crown land, a person shown in the records of the department of the Government administering the land as having an estate or interest in the land;
- (r) “permit” means a permit issued under this Act or a former Act;
- (s) “provincial highway” means
  - (i) a highway or proposed highway designated as a provincial highway under this Act, and

- (ii) a highway that has been designated as a primary highway under a former Act if the designation is subsisting on the coming into force of this Act;
- (t) “roadside improvement” means
  - (i) any building, structure, fixture or road,
  - (ii) any tree, shrub or hedge, or
  - (iii) any sign, notice, advertising device or light;
- (u) “roadway” means that part of a highway designed or intended for use by vehicular traffic;
- (v) “rural municipality” means
  - (i) a municipal district,
  - (ii) an improvement district,
  - (iii) a special area,
  - (iv) a Metis settlement,
  - (v) a wholly rural specialized municipality described as such in the order under the *Municipal Government Act* that forms the specialized municipality, and
  - (vi) a rural service area of a specialized municipality that is described as such in the order under the *Municipal Government Act* that forms the specialized municipality;
- (w) “street” means a highway subject to the direction, control and management of an urban municipality;
- (x) “telecommunication line” means a telecommunication line within the meaning of the *Telecommunications Act* (Canada);
- (y) “traffic control device” means any sign, signal, marking or device placed or erected for the purpose of regulating, warning or guiding traffic;
- (z) “transportation facility” means everything necessary for the efficient transportation of persons and goods in a particular manner;
- (aa) “transportation system” means a system of transportation facilities whether on, above or below ground including,



without limitation, highways and urban rail transit systems and related infrastructure;

(bb) “urban municipality” means

- (i) a city,
- (ii) a town,
- (iii) a village,
- (iv) a summer village,
- (v) a wholly urban specialized municipality described as such in the order under the *Municipal Government Act* that forms the specialized municipality, and
- (vi) an urban service area of a specialized municipality that is described as such in the order under the *Municipal Government Act* that forms the specialized municipality;

(cc) “urban rail transit system” means a street railway, tramway, light rail transit railway or similar undertaking the purpose of which is to transport the general public within an urban or inter-urban area.

(2) No provision in this Act respecting the Minister’s power to enter into an agreement shall be construed as limiting the Minister’s general power under the *Government Organization Act* to enter into agreements.

2004 cH-8.5 s1;2013 c19 s1

### **Responsibility in Respect of Highways**

#### **Designation of provincial highway**

**2(1)** The Minister may by order designate as a provincial highway

- (a) any existing highway, or
- (b) any proposed highway,

and may prescribe a route number for the provincial highway so designated.

(2) Notwithstanding section 16 of the *Municipal Government Act*, where the Minister makes a designation under subsection (1) in respect of an existing or proposed highway in a city, the title to the highway becomes vested in the Crown in right of Alberta.

(3) In an order under subsection (1), the existing highway or the land to be used for the proposed highway is sufficiently described

if its location is indicated on a map attached to the order showing the route of the provincial highway.

#### **Control of provincial highway**

**3** All provincial highways are subject to the direction, control and management of the Minister.

#### **Designation of freeway**

**4(1)** The Lieutenant Governor in Council may by order designate as a freeway

- (a) any existing provincial highway, or
- (b) any proposed provincial highway,

and may prescribe a route number for the freeway so designated.

**(2)** The Lieutenant Governor in Council may, in an order under subsection (1) or an amendment to it, or in a separate order, designate the locations on a freeway or proposed freeway at which access to and from the freeway is to be permitted.

**(3)** In an order under this section, the existing highway or the land to be used for the proposed highway is sufficiently described if its location is indicated on a map attached to the order showing the route of the freeway.

#### **Other highways under Minister**

**5** The Minister has the direction, control and management of

- (a) roads within improvement districts, other than roads under the administration of another member of the Executive Council,
- (b) highways within Metis settlements where the right of management of the highway is retained by the Crown in right of Alberta under letters patent ratified and confirmed by the *Metis Settlements Land Protection Act*,
- (c) highways located on surrendered land in registered Indian reserves the title to which is vested in the Crown in right of Alberta, and
- (d) forestry roads, except forestry roads that are under the direction, control and management of a municipality pursuant to an agreement with the Minister.

**Forestry roads**

**6** The Minister may by order designate any road or proposed road as a forestry road.

**Security deposit for repair of damage**

**7** The Minister may require the owner or operator of a commercial or industrial enterprise that requires the use of a forestry road to deposit with the Minister security in a form and amount determined by the Minister for the repair of damage that may result to the road.

**Restoration of damaged forestry road**

**8(1)** If a vehicle that is engaged in a commercial or industrial enterprise causes damage to a forestry road, the Minister may

- (a) order the owner or operator of the enterprise or the owner or operator of the vehicle to restore the forestry road to a condition acceptable to the Minister, or
- (b) assess the owner or operator of the enterprise or the owner or operator of the vehicle a damage and maintenance charge in an amount that appears to the Minister to be fair and appropriate in relation to the damage caused, and order the owner or operator to pay that amount to the Minister.

**(2)** Where a person to whom an order is given under subsection (1)(a) fails to comply with it, the Minister may cause the restoration to be carried out and may

- (a) order the owner or operator of the enterprise to pay the cost of restoration, as determined by the Minister, or
- (b) declare all or part of the security in an amount equal to the cost of restoration to be forfeited to the Crown.

**(3)** The amount ordered to be paid in an order under subsection (1)(b) or (2)(a) constitutes a debt owing to the Crown.

**(4)** Where damage to a forestry road is caused by more than one commercial or industrial enterprise, the Minister may apportion the damage among them and make corresponding orders to the owners or operators in respect of the payment of amounts under this section.

**Responsibility for construction and maintenance**

**9** Except where an agreement provides otherwise, a highway authority is responsible for the cost of construction and maintenance of all highways subject to its direction, control and management.

**Agreements re bylaws**

**10(1)** Where the Minister enters into an agreement with an urban or rural municipality respecting the construction and maintenance of a highway within the boundaries of the municipality, the agreement may provide that, as of a specified effective date, the bylaws of the municipality in respect of matters under sections 13, 14, 108, 110 and 152 of the *Traffic Safety Act* are, in relation to the highway, to be in accordance with the agreement.

**(2)** When an agreement referred to in subsection (1) provides for any matters mentioned in subsection (1), any bylaw in respect of those matters under the specified provisions of the *Traffic Safety Act* that is not in accordance with the agreement on or after the specified effective date is inoperative with respect to the highway.

**Controlled Highways and  
Controlled Streets****No right of access**

**11(1)** A person

- (a) is not, of right, entitled to any direct access to or from a controlled highway or controlled street from or to any land adjacent to it,
- (b) does not have any right of easement, light or air to, from or over a controlled highway or controlled street, and
- (c) unless otherwise expressly provided in a conservation directive as defined in the *Alberta Land Stewardship Act*, does not have any right of view to, from or over a controlled highway or controlled street.

**(2)** No person is entitled as of right to any compensation solely by reason of the designation of a highway as a controlled highway or the designation of a street as a controlled street.

2004 cH-8.5 s11;2009 cA-26.8 s78

**Controlled highways**

**12(1)** All provincial highways are controlled highways.

(2) The Minister may designate any highway subject to the Minister's direction, control and management as a controlled highway.

**Regulations respecting controlled highways**

**13(1)** The Minister may make regulations

- (a) classifying controlled highways for the purposes of this Act;
- (b) prescribing terms and conditions applicable to the granting of permits by the Minister;
- (c) exempting any class or classes of physical means of access to or from a controlled highway from the requirement for a permit;
- (d) prohibiting, except under the authority of a permit,
  - (i) the placing, constructing, enlarging, extending, erecting or re-erecting of a building, structure, fixture, road, excavation or other development, whether on, above or below ground, and
  - (ii) the display of machinery, motor vehicles or other things, whether placed for storage or wreckage or for the purpose of advertising or for salewithin the distance from a controlled highway that the regulations prescribe;
- (e) prohibiting, except under the authority of a permit, the placing of a tree, hedge or shrub within any distance from a controlled highway that the regulations prescribe;
- (f) prohibiting, except under the authority of a permit, the construction of an electric transmission line, an electric distribution line, a pipeline other than a pipeline to which the *Pipeline Act* applies or a drainage ditch or irrigation canal or ditch within any distance from a controlled highway that the regulations prescribe;
- (g) prohibiting, except under the authority of a permit, the display of a sign, notice or advertising device within any distance from a controlled highway that the regulations prescribe;
- (h) prohibiting the display of a flashing or rotating light within any distance from a controlled highway that the regulations prescribe;

- (i) providing for the exemption from a requirement for a permit under any regulations under clauses (d) to (g).

**(2)** Regulations under subsection (1)(d) to (h) may prescribe different distances with respect to any class of controlled highways but no distance prescribed under those regulations may exceed

- (a) in the case of regulations under subsection (1)(d), (g) or (h),

- (i) 300 metres from the limit of the controlled highway, or
  - (ii) 800 metres from the centre point of the intersection of the controlled highway and another highway,

whichever is greater, and

- (b) in the case of regulations under subsection (1)(e) or (f),

- (i) 30 metres from the limit of the controlled highway, or
  - (ii) 60 metres from the centre line of the roadway of the controlled highway, in the case of a controlled highway other than a freeway designated under section 4, or 115 meters from the centre line of the roadway of a controlled highway that is a freeway designated under section 4,

whichever is greater.

#### **Terms and conditions in permits**

**14** The Minister may issue a permit on any terms and conditions the Minister considers proper and may cancel a permit for any reason that the Minister considers appropriate.

#### **Agreements re telecommunication facilities**

**15** The Minister may enter into an agreement with a telecommunication carrier respecting the placement and subsequent maintenance of telecommunication lines within

- (a) 30 metres from the limit of a controlled highway, or
- (b) 60 metres from the centre line of the roadway of a controlled highway, in the case of a controlled highway other than a freeway designated under section 4, or 115 metres from the centre line of the roadway of a controlled highway that is a freeway designated under section 4,

whichever is greater.

**Commercial sites**

**16** When a site that is used for commercial purposes and is within the distance of a controlled highway prescribed by the regulations under section 13 ceases to be used for commercial purposes for a period of one year, the site may not again be used for commercial purposes unless a permit is issued by the Minister for that purpose.

**Dangerous or unsightly buildings**

**17(1)** If, in the opinion of the Minister, a building, structure, fixture or excavation within the distance of a controlled highway prescribed by the regulations under section 13

- (a) is, by reason of its condition, dangerous to the public safety or health, or
- (b) is, because of its unsightly condition, detrimental to the surrounding area,

the Minister may issue a notice under this section with respect to the building, structure, fixture or excavation.

**(2)** A notice must be in writing and must be served on the owner personally or by registered mail.

**(3)** A notice may require the owner to, within a period of time which must not be less than 60 days from the date of the service of the notice,

- (a) remedy the condition in the manner and to the extent directed in the notice, or
- (b) demolish or remove the building, structure or fixture or fill the excavation and level the site of it.

**(4)** If the owner does not carry out the work specified in the notice within the time specified in the notice the Minister may carry out the work.

**(5)** The Minister may recover the cost of carrying out work under subsection (4) from the owner in an action in debt.

**(6)** The Minister may sell the building, structure or fixture in the course of carrying out work under subsection (4) and offset the proceeds against costs incurred in the course of carrying out the work.

(7) A person who is aggrieved by a notice may apply to the Court of Queen's Bench within 30 days after the date of service of the notice, and if the Court is satisfied that

- (a) the proper procedure as set out in this section has not been followed, or
- (b) the Minister has acted in a manner contrary to the intent and meaning of this section,

the Court may set aside or vary the notice as it considers just.

#### **Removal of unauthorized developments**

**18(1)** The Minister may, by notice,

- (a) require an owner of land to move, remove or alter
  - (i) anything placed, erected, enlarged, extended, re-erected, constructed or displayed on the land within the distance from a controlled highway prescribed in the regulations made under section 13, or
  - (ii) any means of access constructed or maintained on the land providing direct access to a controlled highway;
- (b) require the owner of any property, equipment, material or other thing within the distance from a controlled highway prescribed in the regulations under section 13 to remove the property, equipment, material or other thing beyond the distance prescribed in the regulations.

**(2)** A notice

- (a) must be in writing and must be served on the owner personally or by registered mail, and
- (b) must clearly indicate what work must be carried out and the time within which it must be carried out.

**(3)** If the owner does not carry out the work as required under the notice, the Minister may cause the work to be carried out.

**(4)** The Minister may recover the cost of carrying out work under subsection (3) from the owner in an action in debt.

**(5)** An owner who complies with a notice is entitled to compensation from the Crown for the owner's reasonable expenses in moving, removing or altering anything as required by the notice unless it is or was



- (a) placed, erected, enlarged, extended, re-erected, constructed or displayed in contravention of the regulations under section 13, or
- (b) constructed or maintained in contravention of section 22 or 23.

(6) A claim for compensation under this section must be made by filing the claim and particulars in the office of the Minister not later than one year from the date of service of the notice.

(7) If compensation cannot be agreed on, the claim is to be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the *Expropriation Act*.

### Offences

**19(1)** A person is guilty of an offence who

- (a) fails to comply with a notice under section 18, or
- (b) being a person to whom a notice under section 18 was given repeats the act that gave rise to the giving of the notice or carries out a similar act.

(2) On conviction for an offence under subsection (1)(a), the judge may

- (a) order the person convicted to move, remove or alter, within the period specified in the order, any property, equipment, material or other thing in respect of which the person was convicted, and
- (b) order that no owner of the land shall place or allow to be placed any property, equipment, material or other thing on the part of the land on which the offence was committed without the written permission of the Minister.

(3) A person who contravenes an order made under subsection (2) is guilty of an offence.

(4) A person who is guilty of an offence referred to in this section is liable to a fine of

- (a) not more than \$25 for each day on which the offence occurs or continues, where the offence relates to a sign, or
- (b) not more than \$500 for each day on which the offence occurs or continues, in any other case.

(5) The fine under subsection (4) that may be imposed in respect of an offence referred to in subsection (3) is in addition to any other penalty that may be imposed in respect of the breach of a court order.

(6) A prosecution for an offence referred to in subsection (3) may be commenced at any time within 2 years after the date of the order.

(7) In a prosecution for an offence referred to in subsection (1)(a), a copy of a notice purporting to be made under section 18 and to be signed by the Minister shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the contents of the notice and the signature of the Minister on it.

(8) In a prosecution for an offence referred to in subsection (3), a certificate purporting to be signed by the Minister and stating whether and to what extent and to whom permission was or was not given to place any property, equipment, material or thing on the described land shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the statements in the certificate without proof of the signature or appointment of the person signing it.

#### **Removing access to controlled highways**

**20(1)** The Minister may remove a roadway that provides a physical means of access to or from a controlled highway, whether or not the title to the highway that contains the roadway being removed is vested in the Crown in right of Alberta.

(2) Where the Minister removes a roadway under subsection (1) and the title to the highway that contains the roadway that is being removed is vested in the Crown in right of Alberta, the Minister may direct the cancellation of the road plan in respect of the appropriate portion of the highway.

(3) Where the Minister removes a roadway under subsection (1) in respect of a portion of a highway the title to which is vested in an urban or a rural municipality, the municipality may cancel the road plan in respect of the appropriate portion of the highway.

(4) When a road plan or a portion of a road plan in respect of a highway the title to which is vested in the Crown in right of Alberta intersects the road plan of a controlled highway, the Minister may direct the cancellation of the road plan or portion that intersects the road plan of the controlled highway.

(5) The Minister may remove any direct physical means of access between a controlled highway and land adjacent to the controlled highway.

#### **Compensation for loss from removal of access**

**21(1)** If a physical means of access is maintained in accordance with this Act and the regulations at the time it is removed pursuant to section 20, the Minister shall compensate each person owning an estate or interest in the adjacent land as registered owner, life tenant or purchaser for the loss resulting to that person from the removal of the means of access.

(2) The aggregate amount of compensation payable in an individual case may not exceed the difference between

- (a) the appraised value of the adjacent land prior to the removal of the means of access, and
- (b) the appraised value of that land after the removal of the means of access.

(3) If, prior to its removal, the means of access was maintained pursuant to a permit, the payment of compensation is subject to the terms of the permit.

(4) If a direct means of access is removed and a service or frontage road or other alternative means of access exists or is provided, no compensation is payable under this section.

(5) A claim for compensation under this section must be made by filing the claim and particulars in the office of the Minister not later than one year after the date of the removal of the means of access by the Minister, and the compensation must be determined as of that date.

(6) If compensation cannot be agreed on, the claim is to be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the *Expropriation Act*.

#### **Limitations on access to controlled highways**

**22(1)** No person shall enter on or leave a controlled highway other than a freeway except by way of

- (a) a highway connecting with the controlled highway,
- (b) a physical means of access existing pursuant to a permit,
- (c) a physical means of access in existence prior to

- (i) the designation of the controlled highway under a former Act or pursuant to this Act, or
- (ii) the designation of the controlled highway as a provincial highway under section 2,

and not subsequently removed by the Minister pursuant to a former Act or section 20, or

- (d) a physical means of access exempted under the regulations from the requirement for a permit.

**(2)** No person shall construct or maintain a physical means of access to or from a controlled highway other than a freeway unless

- (a) a permit authorizes the construction or maintenance,
- (b) the regulations exempt the construction or maintenance from the requirement for a permit, or
- (c) the means of access was in existence prior to
  - (i) the designation of the controlled highway under a former Act or pursuant to this Act, or
  - (ii) the designation of the controlled highway as a provincial highway under section 2,

and has not been subsequently removed by the Minister pursuant to a former Act or section 20.

#### **Limitation on access to freeways**

**23(1)** No person shall enter on or leave a controlled highway that is a freeway except by way of

- (a) a highway connecting with the freeway,
- (b) a physical means of access existing pursuant to a permit, or
- (c) a physical means of access that was in existence prior to the designation of the controlled highway as a freeway under section 4 and that has not subsequently been removed by the Minister pursuant to a former Act or section 20.

**(2)** No person shall construct or maintain a physical means of access to or from a controlled highway that is a freeway unless

- (a) the means of access is designated under section 4(2),

- (b) a temporary authorization authorizing the construction or maintenance has been granted pursuant to a regulation under section 61(e), or
- (c) the means of access was in existence prior to the designation of the controlled highway as a freeway under section 4 and has not subsequently been removed by the Minister pursuant to a former Act or section 20.

**Definitions**

**24** In this section and sections 25 to 31,

- (a) “hamlet” means an unincorporated community that is designated as a hamlet under the *Municipal Government Act*;
- (b) “street” includes a road in a hamlet;
- (c) “urban municipality”, in respect of a hamlet, includes a municipal district or specialized municipality.

**Designation of controlled street**

**25** A council of an urban municipality other than an urban municipality to which section 33 applies may by bylaw designate any of its streets as a controlled street.

**Bylaws regulating controlled streets**

**26(1)** The council of an urban municipality may make bylaws

- (a) classifying controlled streets for the purposes of this Act;
- (b) prescribing terms and conditions applicable to the granting of permits by the municipality;
- (c) regulating and controlling the physical means of access to controlled streets;
- (d) exempting any class or classes of physical means of access to or from a controlled street from the requirement for a permit;
- (e) permitting parking on any controlled street or portion of any controlled street;
- (f) prohibiting, except under the authority of a permit,

- (i) the placing, constructing, enlarging, extending, erecting or re-erecting of a building, structure, fixture, road, excavation or other development, whether on, above or below ground, and
- (ii) the display of machinery, motor vehicles or other things, whether placed for storage or wreckage or for the purpose of advertising or for sale

within the distance from a controlled street that the bylaws prescribe;

- (g) prohibiting, except under the authority of a permit, the placing of a tree, hedge or shrub within any distance from a controlled street that the bylaws prescribe;
- (h) prohibiting, except under the authority of a permit, the construction of an electric transmission line, an electric distribution line, a pipeline other than a pipeline to which the *Pipeline Act* applies or a drainage ditch or irrigation canal or ditch within any distance from a controlled street that the bylaws prescribe;
- (i) prohibiting, except under the authority of a permit, the display of a sign, notice or advertising device within any distance from a controlled street that the bylaws prescribe;
- (j) prohibiting the display of a flashing or rotating light within any distance from a controlled street that the bylaws prescribe;
- (k) providing for the exemption from a requirement for a permit under any regulations under clauses (f) to (i).

**(2)** Bylaws under subsection (1)(f) to (j) may prescribe different distances with respect to any class of controlled street, but no distance prescribed under those bylaws may exceed

- (a) in the case of bylaws under subsection (1)(f), (i) or (j),
  - (i) 300 metres from the limit of the controlled street, or
  - (ii) 800 metres from the centre point of the intersection of the controlled street and another highway,whichever is greater, and
- (b) in the case of bylaws under subsection (1)(g) or (h),
  - (i) 30 metres from the limit of the controlled street, or

- (ii) 60 metres from the centre line of the roadway of the controlled street, in the case of a controlled street other than a freeway designated under section 33, or 115 metres from the centre line of the roadway of a controlled street that is a freeway designated under section 33,

whichever is greater.

#### **Terms and conditions in permits**

**27** An urban municipality may issue a permit on any terms and conditions it considers proper and may cancel a permit for any reason that it considers appropriate.

#### **Removing access to controlled streets**

**28(1)** Subject to section 22 of the *Municipal Government Act*, the council of an urban municipality may by bylaw remove the roadway of a street or part of a street that provides a physical means of access to or from a controlled street.

**(2)** Where the council of an urban municipality passes a bylaw under subsection (1) in respect of a street or part of a street the title to which is vested in the municipality, the municipality may cancel the road plan in respect of that street or part of a street.

**(3)** The council of an urban municipality may by bylaw remove any direct physical means of access between a controlled street and land adjacent to the controlled street.

#### **Compensation for loss from removal of access**

**29(1)** If a physical means of access is maintained in accordance with this Act and the bylaws at the time it is removed pursuant to section 28, the urban municipality shall compensate each person owning an estate or interest in the adjacent land as registered owner, life tenant or purchaser for the loss resulting to that person from the removal of the means of access.

**(2)** The aggregate amount of compensation payable in an individual case may not exceed the difference between

- (a) the appraised value of the adjacent land prior to the removal of the means of access, and
- (b) the appraised value of that land after the removal of the means of access.

- (3) If, prior to its removal, the means of access was maintained pursuant to a permit, the payment of compensation is subject to the terms of the permit.
- (4) If a direct means of access is removed and a service or frontage road or other alternative means of access exists or is provided, no compensation is payable under this section.
- (5) A claim for compensation under this section must be made by filing the claim and particulars of it with the chief administrative officer of the urban municipality not later than one year after the date of the removal of the means of access by the urban municipality, and the compensation must be determined as of that date.
- (6) If compensation cannot be agreed on, the claim is to be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the *Expropriation Act*.

**Prohibition**

- 30(1)** No person shall enter on or leave a controlled street except by way of
- (a) a street connecting with the controlled street,
  - (b) a physical means of access existing pursuant to a permit,
  - (c) a physical means of access in existence prior to the designation of the controlled street under a former Act or this Act, and that has not been subsequently removed by the council of the urban municipality pursuant to a former Act or section 28, or
  - (d) a physical means of access exempted under the bylaws from the requirements for a permit.
- (2) No person shall construct or maintain a physical means of access to or from a controlled street unless
- (a) a permit authorizes the construction or maintenance,
  - (b) the bylaws exempt the construction or maintenance from the requirement for a permit, or
  - (c) the means of access was in existence prior to the designation of the controlled street under a former Act or this Act, and has not been subsequently removed by the council of the urban municipality pursuant to a former Act or section 28.



**Agreements re controlled streets**

**31(1)** The Minister and an urban municipality may enter into an agreement

- (a) providing for any matters in respect of which the council may make bylaws pursuant to section 26, and
- (b) providing that any bylaw made under section 26 must, as of a specified effective date, be in accordance with the agreement.

**(2)** When an agreement provides for any matters referred to in subsection (1)(b), any bylaw that, on or after the specified effective date, is not in accordance with the agreement is inoperative with respect to the controlled street concerned.

**(3)** If the urban municipality

- (a) does or omits to do anything in breach of an agreement providing for any of the matters referred to in subsection (1), or
- (b) purports to do any act with respect to a controlled street under a bylaw that is inoperative with respect to that street by virtue of subsection (2),

the Court of Queen's Bench, on application by the Crown, may grant an order to restrain the municipality from doing any act in breach of the agreement or to compel the doing of any act that will remedy its breach of the agreement or its unlawful act, as the case may be.

**City Transportation Systems****Transportation study report**

**32(1)** A city shall prepare a comprehensive transportation study report for the development of an integrated transportation system designed to serve the needs of the entire city.

**(2)** A transportation study report must be prepared in accordance with terms of reference set by the Minister.

**Transportation system bylaws**

**33(1)** The council of a city shall, by bylaw in accordance with the *Municipal Government Act*, establish a transportation system in accordance with the transportation study report, and the bylaw must designate the transportation system.

- (2) The bylaw must be in a form acceptable to the Minister and must
- (a) include a map showing the appropriate locations of the transportation facilities and any other things required by the Minister,
  - (b) list the streets that are to be controlled streets and designate them as such on the map referred to in clause (a), and
  - (c) list the controlled streets that are to be freeways and designate them as such on the map referred to in clause (a).
- (3) The council shall hold a public hearing on the proposed bylaw and on every amendment to it.
- (4) The council shall submit the bylaw to the Minister for approval and the Minister may approve the bylaw in whole or in part or with variations, and the bylaw has effect only as approved.
- (5) It is not necessary for the council to pass a further bylaw amending the bylaw submitted pursuant to subsection (4) to conform with the bylaw as approved by the Minister, but it is deemed to be amended as approved.

#### **Proposal for transportation facility**

**34** When a city considers that a transportation facility included in the transportation system should be constructed it shall submit the proposal to the Minister.

#### **Agreement**

**35** Where the Minister and a city enter into an agreement that provides for sharing the costs of establishing a transportation facility, any contribution towards the cost of establishing the transportation facility that is received by the city from a source other than the city's sources must be deducted from the costs of establishing the transportation facility for the purposes of the agreement.

#### **Transportation facility outside city boundary**

**36** Unless otherwise directed by the Minister, if part of a transportation facility in a bylaw that has been approved by the Minister under section 33(4) is located on land that is outside the boundaries of the city, the city has the direction, control and management of the part of the transportation facility that is located on that land.

**Extended application of sections 32 to 34**

**37** The Minister may by notice in writing require the council of

- (a) a wholly urban specialized municipality, or
- (b) a specialized municipality that contains an urban service area

to comply with any or all of sections 32 to 34, and in that case those sections apply in respect of the council and the specialized municipality to the extent specified in the notice.

**Powers and Duties of  
Highway Authorities****Cancellation of road plan**

**38(1)** In addition to the Minister's powers under section 20, the Minister may by order direct the cancellation of the whole or any part of a road plan in respect of a highway the title to which is vested in the Crown in right of Alberta.

**(2)** If an urban or a rural municipality has the direction, control and management of a highway or a portion of a highway that is the subject of an order under subsection (1), the highway or portion of the highway is no longer subject to the direction, control and management of the municipality.

**Closure of unsurveyed highway**

**38.1(1)** In this section, "highway" means land that is used as a public highway or authorized by a highway authority to be used as a public highway, a bridge forming part of a public highway and any structure incidental to the public highway, but that has not been surveyed for use as a public highway, or in respect of which a road plan has not been registered.

**(2)** In addition to the Minister's powers under sections 20 and 38, the Minister may, by order, close the whole or any portion of a highway the title to which is vested in the Crown.

**(3)** If an urban or a rural municipality has the direction, control and management of a highway or a portion of a highway that is the subject of an order under subsection (2), the highway or portion of the highway is no longer subject to the direction, control and management of the municipality.

2013 c19 s1

**Temporary closure of highway**

**39(1)** While any construction or maintenance of a highway is in progress, the highway authority may close to traffic any part of the highway in which construction or maintenance is being carried out, for the time it considers necessary.

**(2)** An urban or rural municipality must comply with section 25 of the *Municipal Government Act* in exercising its power under subsection (1).

**(3)** Where a highway authority has entered into an agreement with another person with respect to the construction or maintenance of a highway that is under the direction, control and management of the highway authority, the highway authority may authorize another person who is involved in the construction or maintenance of the highway to exercise the highway authority's power under subsection (1).

**(4)** Every person using a highway closed to traffic in accordance with this section does so at the person's own risk, and the highway authority is not liable in any action for damages resulting from the use by a person of a highway so closed to traffic.

**(5)** If a highway is closed to traffic pursuant to this section, no person shall enter on or travel on the highway unless

- (a) the person is authorized to do so by the highway authority or by a person who holds an authorization under subsection (3), or
- (b) the person enters on or travels on the highway in the course of the person's duties in connection with the construction or maintenance being done on that highway.

**Access and travel restrictions**

**40(1)** The Minister may by order close, or prohibit or restrict access to, a highway or a portion of a highway for safety or security reasons, regardless of which highway authority has the direction, control and management of the highway.

**(2)** Where the Minister proposes to close, or to prohibit or restrict access to, a highway or a portion of a highway that is under the direction, control and management of a highway authority other than the Minister, the Minister shall first consult with that highway authority unless, in the Minister's opinion, prior consultation is impractical due to urgent safety or security reasons.

**(3)** In the case of restrictions under subsection (1), the Minister shall specify in the order what the restrictions are.

(4) A person who contravenes an order made under this section is guilty of an offence.

(5) The *Regulations Act* does not apply to an order made under this section.

#### **Special event closure**

**41(1)** The Minister may by order close, or prohibit or restrict access to, a highway or a portion of a highway under the direction, control and management of the Minister if that highway or that portion of that highway is authorized by the Minister to be used for a special event.

(2) In the case of restrictions to access under subsection (1), the Minister shall specify in the order what the restrictions are.

(3) A person who contravenes an order made under this section is guilty of an offence.

(4) The *Regulations Act* does not apply to an order made under this section.

#### **Repair of highways**

**42(1)** The Minister shall ensure that highways subject to the direction, control and management of the Minister are kept in a reasonable state of repair having regard to the character of the highway and the locality in which it is situated or through which it passes.

(2) The Crown is liable for loss or damage sustained by any person by reason of the default of the Minister under subsection (1).

(3) The Crown is not liable for loss or damage under this section unless the claimant has suffered by reason of the default of the Crown a particular loss or damage beyond what is suffered by the claimant in common with all persons affected by the disrepair.

(4) Nothing in this section imposes on the Crown any obligation or liability in respect of acts done or omitted to be done by a person exercising power or authority conferred on the person by law, and over which the Minister has no control, if the Minister is not a party to the act or omission.

(5) Default under this section may not be imputed to the Crown in any action if the Crown proves that it did not have actual or constructive notice of the disrepair of the highway or that it took reasonable means to prevent the disrepair.

**(6)** When a traffic control device has been defaced, removed or destroyed

- (a) by someone other than a Crown employee or a contractor or agent acting on behalf of the Crown, or
- (b) as a result of an act of vandalism,

default under this section may not be imputed to the Crown in any action without proof by the plaintiff that the Crown knew of the defacement, removal or destruction and failed to restore, repair or replace the traffic control device in a reasonable period of time.

**(7)** No action may be brought against the Crown for loss or damage caused

- (a) by the presence or absence or insufficiency of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on the highway, or
- (b) 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 thing adjacent to or in, along or on the highway that is not on the roadway.

**(8)** No action may be brought against the Crown for the recovery of damages under this section unless notice in writing of the claim and of the loss or damage complained of has been served on or sent by registered mail to the Minister within one month after the happening of the loss or damage, but the failure to give, or the insufficiency of, the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the lack or insufficiency of the notice and that the Crown is not prejudiced in its defence by reason of the lack or insufficiency of the notice.

#### **Drainage of highways**

**43(1)** The Minister shall make adequate provision for

- (a) the drainage of all highways subject to the Minister's direction, control and management, and
- (b) the disposition of any water collected in a drainage ditch or other artificial depression created by the Minister on or contiguous to a highway subject to the Minister's direction, control and management.

(2) A person who is the owner of land in the vicinity of a highway subject to the direction, control and management of the Minister and who claims that he or she has suffered loss or damage by reason of the default of the Minister under subsection (1) may recover damages from the Crown.

(3) No action may be brought for the recovery of damages under this section unless notice in writing of the claim and of the loss or damage complained of has been served on or sent by registered mail to the Minister within one month after the happening of the loss or damage, but the failure to give, or the insufficiency of, the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the lack or insufficiency of the notice and that the Crown is not prejudiced in its defence by reason of the lack or insufficiency of the notice.

#### **Agreements re fences**

**44(1)** A highway authority may enter into an agreement with the owner of land adjoining a highway with respect to the moving, removal or construction of a fence along the highway and may pay compensation to the owner for the moving, removal or construction.

(2) When the highway authority considers it necessary that a fence on land adjoining a highway be moved, removed or constructed but is unable to make an agreement under subsection (1), the highway authority

- (a) may enter on the adjoining land for the purpose of moving, removing or constructing the fence, and
- (b) if the fence was removed but not replaced, shall compensate the owner of the fence for it.

(3) Unless otherwise provided in an agreement under subsection (1), the responsibility for the repair and maintenance of a fence moved or constructed pursuant to this section rests with the owner of the land on which the fence is located.

#### **Snow fences**

**45(1)** A highway authority

- (a) may enter on and occupy any land that is contiguous to a highway and erect snow fences on that land for the purpose of preventing the highway from becoming blocked by snowdrifts, and

- (b) may from time to time enter on the land for the purpose of maintaining, repairing, removing or replacing a snow fence.
- (2) No person is entitled to rent or other compensation in respect of an entry or occupation under this section.
- (3) A snow fence erected pursuant to this section continues to be the property of the highway authority that erected it.
- (4) Unless the person is authorized to do so by the highway authority that erected it, a person who knocks down, moves, removes, damages or interferes with a snow fence erected pursuant to this section is guilty of an offence.

### **Bridges**

- 46(1)** Notwithstanding anything in this Act, the Minister may direct the construction or maintenance of a bridge on a highway or may enter into an agreement with any person for the construction or maintenance of a bridge.
- (2) The costs of construction or maintenance of the bridge are to be paid
- (a) by the Crown,
  - (b) by the urban municipality, rural municipality, irrigation district, drainage district or other person concerned, or
  - (c) by the Crown and the urban municipality, rural municipality, irrigation district, drainage district or other person concerned, apportioned on the basis determined by the Minister,
- whichever the Minister directs.
- (3) When the cost of construction or maintenance is to be apportioned, the total cost may in the first instance be paid by the Minister.
- (4) The Crown is entitled to recover as a debt due to the Crown the part of the cost of the construction or maintenance apportioned to an urban municipality, rural municipality, irrigation district, drainage district or other person or to deduct the cost from payments to be made in future by the Crown to the urban municipality, rural municipality, irrigation district, drainage district or other person under an agreement made under this Act or any other Act.



**Ferries and cable cars**

**47** When the Minister considers it appropriate to do so, the Minister may establish and operate a ferry or cable car over or on a river, stream, lake or other body of water for the purpose of connecting 2 parts of a highway, and may carry out any other work that is necessary for the operation of the ferry or cable car.

**Roadside improvements**

**48(1)** A highway authority may by order or bylaw, as the case may be, determine and fix the distance, up to a maximum of 90 metres, from the centre line of a highway subject to its direction, control and management within which the owner of any land shall not, without approval of the Minister or the council, place, erect or plant any roadside improvement that may

- (a) cause a drifting or accumulation of snow on a highway,
- (b) damage the highway,
- (c) obstruct the vision of pedestrians or drivers of vehicles on the highway, or
- (d) create a hazard to traffic on the highway.

**(2)** This section does not apply to a controlled highway or a controlled street.

**Removal of roadside improvements**

**49** When a highway authority is of the opinion that a roadside improvement on or over land adjacent to a highway

- (a) is causing or will cause a drifting or accumulation of snow on the highway,
- (b) is damaging or will damage the highway,
- (c) is obstructing or will obstruct the vision of pedestrians or drivers of vehicles on the highway,
- (d) is or is likely to create a hazard to traffic on the highway, or
- (e) is placed, erected or planted in contravention of an order or bylaw under section 48,

and the highway authority is unable to reach an agreement with the owner of the land for the removal of the roadside improvement or as to the amount of compensation to be paid for it, the highway authority may apply to the Court of Queen's Bench for an order

authorizing it to enter on the land affected to remove the roadside improvement, and the judge, on whatever notice to the owner the judge considers proper, may make an order and may fix the amount of compensation to be paid to the owner and may give any directions as to costs that in the judge's opinion are just.

2004 cH-8.5 s49;2009 c53 s80

### **Prohibitions and Enforcement Provisions**

#### **Interference with roadway**

**50** Where the Minister accepts responsibility for the roadway of a highway for which the Minister is not the highway authority, no person shall, without the prior consent of the Minister,

- (a) disturb the roadway or an embankment,
- (b) engage in the burying or auguring of a utility under the roadway,
- (c) place a culvert in a manner or location that might affect the roadway, or
- (d) engage in any other activity that affects the roadway.

#### **Obstruction of or damage to highway**

**51(1)** A person who, without justification or excuse,

- (a) obstructs or deposits any material on a highway, or
- (b) interferes with or damages a highway,

is guilty of an offence.

**(2)** A judge who convicts a person of an offence under subsection (1) may, in addition to any other penalty, order the convicted person to forthwith remove any obstruction or material deposited on the highway.

**(3)** When any person contravenes subsection (1), the highway authority concerned may remove the obstruction or material deposited on the highway or repair the highway, as the case may be, and recover its expenses incurred in doing so from that person in an action in debt.

2004 cH-8.5 s51;2013 c19 s1

#### **Damage to highway by irrigation**

**52(1)** No person shall cause or permit 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.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable to a fine of not more than \$500 for each day or part of a day on which the contravention occurs or continues.

(3) In addition to a fine under subsection (2) the judge may order the convicted person to pay to the highway authority an amount that appears to the judge to be sufficient to compensate the highway authority for damage caused to the highway by the escape of the water into the highway ditch or into or on the highway.

(4) Nothing in this section derogates from the right of the highway authority to claim by way of civil action for any damage caused to the highway by the escape of the water into the highway ditch or into or on the highway.

#### **Damage to traffic signs, etc.**

**53(1)** A person who defaces, knocks down, moves, damages or renders illegible a traffic control device or illumination device placed or erected by a highway authority is guilty of an offence.

(2) A judge who convicts a person of an offence under subsection (1) may, in addition to any other penalty, order the convicted person to pay to the highway authority an amount that appears to the judge to be sufficient to compensate the highway authority for the loss of or damage to the device.

#### **Remedying dangerous conditions**

**54(1)** If a peace officer finds on any land conditions that the peace officer reasonably believes may cause danger to the life or property of any person travelling on a highway, the peace officer may enter on the land with any equipment and persons the peace officer considers necessary and do any acts necessary to remedy the conditions.

(2) No person is entitled to compensation in respect of damage resulting from any acts done pursuant to this section.

#### **Administrative penalties**

**55(1)** Where the Minister is of the opinion that a person has contravened a provision of this Act or the regulations that is specified in the regulations for the purposes of this section, the Minister may, subject to the regulations, by notice in writing served on the person personally or by registered mail, require that person to pay to the Government an administrative penalty in the amount set out in the notice not exceeding \$500.

(2) An administrative penalty may be assessed under subsection (1) for each day or part of a day on which the alleged contravention occurs or continues.

(3) A person who pays an administrative penalty in respect of an alleged contravention may not be charged under this Act with an offence in respect of that contravention.

(4) A notice under subsection (2) may not be issued more than 2 years after

- (a) the date on which the alleged contravention occurred, or
- (b) the date on which evidence of the alleged contravention first came to the attention of the Minister,

whichever occurs later.

#### **Payment of penalty**

**56** A person who is served with a notice of administrative penalty pursuant to section 55 shall pay the amount of the penalty within 30 days from the date of service of the notice.

#### **Enforcement in Court of Queen's Bench**

**57** Subject to the right to appeal a notice of administrative penalty, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations, the Minister may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

#### **Appeal of administrative penalty**

**58** A person who is served with a notice of administrative penalty pursuant to section 55 may appeal the notice to the Alberta Transportation Safety Board, and the Board shall deal with the appeal as if it were an appeal under section 41 of the *Traffic Safety Act*.

#### **General penalty**

**59** Any person who is guilty of an offence under this Act or the regulations for which no penalty is specifically provided is liable

- (a) for a first offence, to a fine of not more than \$200, and

- (b) for a 2nd or subsequent offence, to a fine of not less than \$50 and not more than \$500.

### General

#### No right to compensation

**60** Except as provided in this Act, nothing in this Act or the regulations or bylaws under this Act gives a person a right to compensation.

#### Ministerial regulations

**61** The Minister may make regulations

- (a) respecting the terms and conditions on which any persons may use highways for the purpose of exploration as defined in Part 8 of the *Mines and Minerals Act* and governing the conduct of the exploration in relation to the use of highways;
- (b) respecting the leasing of highways that have not been developed for use as highways or in respect of which the Minister has given a direction under section 20(2) or 38;
- (c) specifying the provisions of this Act and the regulations in respect of which a notice of administrative penalty may be given under section 55;
- (d) authorizing the transfer of the direction, control and management of a bridge referred to in section 46 from a highway authority to an irrigation district or drainage district, and prescribing terms and conditions in respect of such a transfer;
- (e) authorizing the Minister to grant to any person a temporary physical means of access to a freeway designated under section 4, and prescribing the terms and conditions applicable to the use of the means of access;
- (f) providing, with respect to any provision of the regulations, that its contravention constitutes an offence and prescribing penalties in respect of such an offence;
- (g) respecting the transition of any matter from the former Acts;
- (h) to deal with any difficulty or impossibility resulting from the transition from the former Acts;

- (i) respecting any other matter that the Minister considers necessary for the purpose of carrying out the intent of this Act.

#### **Deficiency regulations**

**62(1)** The Lieutenant Governor in Council may make regulations in respect of matters coming under this Act that the Minister considers are not provided for or are insufficiently provided for in this Act.

**(2)** A regulation made under subsection (1) is repealed on the earliest of the following:

- (a) the coming into force of an amendment to an Act that provides for the matter dealt with in the regulation;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) the expiration of 2 years from the day that the regulation made under subsection (1) comes into force.

**(3)** The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

**(4)** A regulation may not be made under subsection (1) after the expiration of 3 years from the day that this section comes into force, but any regulation made under subsection (1) that is in force on the expiration of that 3-year period remains in force until it is repealed under subsection (2).

**(5)** A regulation may not be made under subsection (1) altering the provisions of subsection (2) or extending the 3-year period provided for in subsection (4).

#### **Transitional Provisions, Consequential Amendments, Repeals and Coming into Force**

##### **Transitional**

**63(1)** If on the coming into force of section 33 a city's transportation bylaw under the *City Transportation Act* does not designate controlled streets, the city shall, not later than 3 years after section 33 comes into force, amend the bylaw so that it complies with section 33 or enact a bylaw that complies with section 33.

**(2)** Until a bylaw is amended or enacted as required under subsection (1), all highways included in the city's transportation system are controlled streets for the purposes of this Act.

**64** *(This section amends the Expropriation Act; the amendment has been incorporated into that Act.)*

**65** Repealed 2006 cF-28.1 s74.

**66 to 77** *(These sections amend other Acts; the amendments have been incorporated into those Acts.)*

#### **Repeals**

**78** The following Acts are repealed on a date or dates to be fixed by Proclamation:

- (a) the *Public Highways Development Act*;
- (b) the *City Transportation Act*.

#### **Coming into force**

**79** This Act comes into force on Proclamation.

*(NOTE: Section 72 proclaimed in force August 25, 2004.*

*Proclaimed in force, except section 72, January 1, 2010.)*



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