

January 23, 2019

Lethbridge County Business Tax Upheld by Alberta Court of Appeals

County received decision from Alberta's Court of Appeals January 18, 2019

In 2016, Lethbridge County implemented a Business Tax as part of a solution to the funding shortfall for the County's essential road infrastructure impacted by its large number of confined feeding operations. The County owns and maintains approximately 2,000 km roads and 167 bridges criss-crossing an extensive irrigation system. In addition, the County is home to the highest number of confined feeding operations in Alberta including beef, dairy, swine, and poultry operations. With respect to beef, [Alberta hosts 69% of Canada's fed cattle production](#) (feedlots) with Lethbridge County hosting the majority of these operations. As such the combined number, density, and size of the confined feeding operations in Lethbridge County is unique when compared to all other rural municipalities in the province.

The County chose to address this unique situation with a Business tax – the first rural municipality in Alberta to do so. Section 371 of the *Municipal Government Act* stipulates the requirements municipal councils must follow to implement a business tax, which identifies specific contents of that must be included in a Business Tax Bylaw that must be passed before this type of taxing regime is implemented. After several public consultation sessions and consideration by Council, Lethbridge County passed a [Business Tax Bylaw](#), and a business tax structure was chosen to best capture the confined feeding operations that rely on municipal infrastructure. Each year, as outlined in the MGA, Lethbridge County passes a [Business Tax Rate Bylaw](#) outlining tax rates for each class of business. The Business Tax bylaw also includes other agricultural operations as other classes of business to distribute the taxation fairly amongst all the producers using and impacting the County's road system.

The County's Business Tax for confined feeding operations is calculated through a conversion of the *Agricultural Operations Practices Act* (AOPA) formula for animal units. Animal units were identified as a fair comparison between livestock types and how their production activities impact the road system (Market Access Network) in the county. The County also uses the animal unit data provided to the NRCB, the provincial regulator of AOPA, to determine the number of animals for each confined feeding operation to apply the business tax formula against. In 2018 Lethbridge County's budget estimated the business tax raised \$1.4 million contributing to improved haul routes, bridge maintenance on paved road maintenance and upgrades as part of the County's [Funding Our Future Program](#). Under this program the County of Lethbridge also utilizes a Community Aggregate Payment (CAP) Levy which applies to aggregate or gravel producers. Lastly, funds from taxation on farmland are also used to reinvest into the Market Access Network due to the impact these farming activities have on the haul routes.

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Combined, these measures raise \$2.0 million for the County's Funding Our Future infrastructure program.

Being new the application of the business tax garnered much attention, resulting in a group of local feedlot owners taking legal action against the County. Last week, Alberta's Court of Appeals ruled 2-1 that the County did have the authority to implement the business tax. In a [County of Lethbridge news release](#) Reeve Lorne Hickey states "We are pleased with the court's ruling. Today's decision will allow Lethbridge County to continue the work we have started and ensure our infrastructure is safe and reliable, and that our producers can get their products to market. The Business Tax enables Lethbridge County to continue to fund these necessary improvements to our roads and bridges for our citizens and business owners."

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