



BYLAW C-7690-2017

A Bylaw of Rocky View County, in the Province of Alberta, to regulate Nuisances and Unsightly and Dangerous Property within Rocky View County

WHEREAS Council recognizes that Rocky View County is geographically large and diverse and includes areas where residential, commercial, agricultural, and industrial land uses, developments, and buildings may be permitted;

AND WHEREAS nuisances and unsightly and dangerous properties are a blight on the community and detrimental to surrounding areas throughout Rocky View County;

AND WHEREAS the purpose of this Bylaw is to prevent the existence and proliferation of nuisances and unsightly and dangerous properties and to regulate, control, and abate the same in Rocky View County;

NOW THEREFORE, the Council of Rocky View County, duly assembled, enacts as follows:

TITLE

- 1 This Bylaw shall be known as the "Nuisance and Unsightly Property Bylaw."

DEFINITIONS

- 2 In this Bylaw, unless the context otherwise requires:
- a) **"Animal Material"** means any animal excrement, offal, carcasses or parts thereof, including all material accumulated on a Property from pet pens, yards, stables, veterinary clinics, hospitals, kennels or feed lots;
 - b) **"Building Material"** means materials from a construction or demolition *site* that are or include reinforced concrete, asphalt, lumber, timber, metal framing materials, reinforcing steel, glass, ductwork, plaster, drywall, or similar materials, or earth, vegetation, or rock displaced during such construction, alteration, or repair;
 - c) **"Chief Administrative Officer"** means that individual appointed by Council into the position of Chief Administrative Officer for the County pursuant to the ***Municipal Government Act*** or his/her designate;
 - d) **"Compliance Order"** means an Order described in Section 545 or Section 546 of the ***Municipal Government Act***;
 - e) **"Council"** means the duly elected Council of Rocky View County ;
 - f) **"County"** means the municipal corporation of Rocky View County together with its jurisdictional boundaries, as the context requires;
 - g) **"Court"** means a Court of competent jurisdiction in the Province of Alberta;
 - h) **"Dangerous Property"** means any condition on a Property which, in the opinion of a Designated Officer, may create or constitute a danger to public safety;

- i) **"Derelict Equipment"** means equipment or machinery that is inoperative by reason of its disassembly, age, or mechanical condition, including any household appliance stored outside of a building regardless of whether it is in an inoperative condition;
- j) **"Derelict Vehicle"** means the whole or any part of a motor vehicle or farm equipment that:
 - i) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition and is not located in a building or on a Property such that it can be concealed from view;
 - ii) has no current licence plate attached to it and has not been issued a registration certificate for the current year; or
 - iii) is inoperative by reason of removed parts or equipment and is not located within a building or on a Property such that it can be concealed from view;
- k) **"Designated Officer"** means a person appointed to that office pursuant to the **Municipal Government Act** or an authorized delegate thereof;
- l) **"Enforcement Officer"** means a member of the Royal Canadian Mounted Police (R.C.M.P), a Community Peace Officer appointed by the Solicitor General of Alberta in accordance with the **Peace Officers Act**, SA 2006, c P-3.5, as amended from time to time, or a Bylaw Enforcement Officer employed by Rocky View County in accordance with the **Municipal Government Act**;
- m) **"Enforcement Appeal Committee"** means the Council committee established in accordance with the **Municipal Government Act** having the delegated authority of Council to review an Order issued under this Bylaw;
- n) **"Municipal Government Act"** means the **Municipal Government Act**, RSA 2000, Chapter M-26 and the respective regulations thereunder;
- o) **"Nuisance"** means the physical condition of, use of, or an emission from a Property which, in the opinion of a Designated Officer, constitutes an unreasonable interference with the use and enjoyment of other private or public Property, including, without limiting the foregoing, Unsightly Property and Dangerous Property;
- p) **"Owner"** means jointly and severally:
 - i) any Person registered as the Owner of land under the **Land Titles Act**, RSA 2000, c L-4, as amended from time to time;
 - ii) the Person who is recorded as the Owner of the Property on the assessment roll of Rocky View County;
 - iii) a Person who has become the beneficial Owner of a Property, including by entering into a Purchase and Sale Agreement but has not yet become the registered Owner thereof;
 - iv) a Person holding out as the Person exercising the power or authority of ownership or who for the time being exercises the powers and authority of ownership over the Property;
 - v) a Person in control of Property; or
 - vi) a Person who is the occupant of the Property under a lease, license, or permit;

- q) **"Person"** means any individual or business entity including a firm, joint venture, proprietorship, association, corporation, organization, partnership, company or society and any other legal entity;
- r) **"Pest"** means an animal, bird, reptile, or insect that may, in the opinion of a Designated Officer, cause annoyance or harm to a Person, animal, plant, or other Property, including but not limited to an organism declared as a Pest or a Nuisance pursuant to the ***Agricultural Pests Act***, RSA 2000, c A-8 as amended from time to time;
- s) **"Property"** means any lands, buildings, structures, or premises, or any personal property located thereupon, within the jurisdictional boundaries of Rocky View County;
- t) **"Provincial Offences Procedure Act"** means the ***Provincial Offences Procedure Act***, RSA 2000, c P-34, as amended from time to time;
- u) **"Reasonable State of Repair"** means buildings and structures that are:
 - i) structurally sound;
 - ii) free from damage;
 - iii) free from rot or other deterioration;
 - iv) safe for their intended use; and
 - v) so as not to present as a Nuisance;
- v) **"Rocky View County"** means Rocky View County as a municipal corporation established pursuant to the laws of the Province of Alberta and the area within the jurisdictional boundaries of Rocky View County, as the context of this Bylaw so requires;
- w) **"Stop Order"** means an Order described in Section 645 or Section 646 of the ***Municipal Government Act***;
- x) **"Unoccupied Building"** means buildings or structures normally intended for human occupancy but are currently vacant;
- y) **"Unightly Property"** means any Property or part of it which is, in the opinion of a Designated Officer, characterized by visual evidence of a serious disregard for general maintenance and upkeep, examples of which include but are not limited to:
 - i) any loose waste, litter, refuse, garbage, ashes, papers, packages, containers, bottles, cans, appliances, household goods, boxes, tires, broken household dishes and utensils, boxes, cartons, discarded fabrics, human excrement or sewage, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, whether of any apparent value or not and whether located in a storage area or elsewhere on a Property;
 - ii) presence of a Derelict Vehicle or Derelict Equipment;
 - iii) an excessive accumulation of Animal Material, Building Material or Yard Material;
 - iv) presence of graffiti that is visible from any surrounding Property;
 - v) the uncontrolled growth or lack of maintenance of grass, weeds, trees, shrubs or other vegetation and plants; or

- vi) the failure to keep a Reasonable State of Repair;
- z) **“Violation Ticket”** means a ticket issued pursuant to the ***Provincial Offences Procedure Act***;
- aa) **“Yard Material”** means organic matter formed as a result of gardening or horticultural activities, including grass, tree, and hedge cuttings and clippings.

GENERAL PROHIBITIONS

- 3 An Owner shall not cause or allow their Property to be a Nuisance, Unsightly Property, or Dangerous Property.
- 4 In determining whether a Property is Unsightly as defined in this Bylaw, an Enforcement Officer shall regard the normal use and location of the Property. Notwithstanding Section 2(x) of this Bylaw, the accumulation of Building Material or equipment on a Property where valid Permits exist shall not constitute an Unsightly Property so long as:
 - (1) the Building Material and equipment are related to the work authorized under a Building Permit; and
 - (2) in the opinion of a Designated Officer, the work is currently in progress, the accumulation is not excessive, and all reasonable steps are being taken to minimize the Nuisance, Unsightly, or Dangerous nature of the Property.
- 5 Notwithstanding Section 2(y)(iii) of this Bylaw, the accumulation of Animal Material on Property designated or permitted for use as agricultural lands shall not constitute a Nuisance or Unsightly Property under this Bylaw so long as, in the opinion of a Designated Officer, the accumulation is not considered excessive given the scope and scale of the agricultural activity.

PROPERTY STANDARDS AND MAINTENANCE

- 6 Every Owner shall ensure that their Property is maintained in a Reasonable State of Repair, including but not limited to the repair or maintenance of:
 - (1) significant deterioration of any buildings, structures, or improvements, or portions thereof;
 - (2) broken or missing windows, siding, shingles, shutters, eaves troughs, or other related improvements;
- 7 Every Owner of an Unoccupied Building shall ensure that any door or window is secured in such a manner that:
 - (1) prevents unauthorized access;
 - (2) is water tight;
 - (3) complies with Section 6 of this Bylaw; and
 - (4) does not contribute to the Property becoming Unsightly.
- 8 Every Owner shall take reasonable steps to prevent attracting, sustaining, or the breeding of Pests on their Property.

INSPECTION

- 9 A Designated Officer may, in accordance with the ***Municipal Government Act***, enter onto a Property to carry out an inspection for the purpose of ensuring compliance with this Bylaw.
- 10 Prior to exercising their authority to enter onto a Property to conduct an inspection, the Designated Officer shall provide the Owner with reasonable notice unless, in the opinion of the Designated Officer, an emergency or extraordinary circumstance exists pursuant to the ***Municipal Government Act***.

ORDER

- 11 If a Designated Officer considers a Property to be a Nuisance, Unsightly Property, or Dangerous Property, he/she may issue a Compliance Order and/or a Stop Order to Property Owner or other Person responsible for the Property or both.
- 12 A Compliance Order or a Stop Order shall include the requirements found in the ***Municipal Government Act***, including but not limited to the following:
 - (1) the section of the ***Municipal Government Act*** under which the order is issued;
 - (2) a description of the Property, including
 - (a) the name, if any;
 - (b) the municipal address; and
 - (c) the legal description;
 - (3) particulars of the contravention under this Bylaw;
 - (4) a description of the clean-up, removal, cleaning, clearing or other actions required to be made;
 - (5) the time within which the clean-up, removal, clearing, or other actions are to be completed;
 - (6) a statement that if the required actions are not completed within the time specified, the County may carry out the actions required and charge the cost thereof against the Person to whom the order is directed, and if such Person does not pay the costs, the costs shall be charged against the tax roll for the Property concerned as taxes due and owing in respect of that Property and recovered as such; and
 - (7) a statement that the Person named in the Order may, by written notice, request for a review of the Order by the Enforcement Appeal Committee.
- 13 A Person who receives an Order may, by written notice, request to the Enforcement Appeal Committee to review the Order within:
 - (1) 14 days after the date the Order is received, in the case of an Order issued under Section 545 of the ***Municipal Government Act***; and
 - (2) 7 days after the date the Order is received, in the case of an Order issued under Section 546 of the ***Municipal Government Act***.

SERVICE OF ORDER

- 14 An Order issued for a contravention of this Bylaw may be served:
- (1) in the case of an individual:
 - (a) by delivering it personally to the individual;
 - (b) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age; or
 - (c) by registered mail addressed to the individual at their apparent place of residence or to any address for the individual listed on the tax roll of the County; or
 - (2) in the case of a corporation or partnership:
 - (a) by delivering it personally to any director or officer of the corporation or partner of a partnership;
 - (b) by delivering it personally to a Person apparently in charge of an office of the corporation or partnership at an address held out by the corporation or partnership to be its head-office; or
 - (c) by registered mail addressed to the registered office of the corporation or partnership.
- 15 In the event that the methods of service listed in Section 14 of this Bylaw prove, in the opinion of the Designated Officer, to be impractical or not likely to be successful, service can be effected by any other means that the Designated Officer determines to be appropriate, including but not limited to:
- (1) posting to the Property;
 - (2) issuance by regular mail; or
 - (3) advertising in a local newspaper or similar publication.

REVIEW OF ORDER BY THE ENFORCEMENT APPEAL COMMITTEE

- 16 Council delegates its authority to review an Order pursuant to Section 547 of the ***Municipal Government Act*** to the Enforcement Appeal Committee
- 17 After reviewing the Order, the Enforcement Appeal Committee may confirm, vary, substitute, or cancel the Order.

OFFENCE

- 18 Regardless of whether an Order has been issued pursuant to this Bylaw, any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a specified penalty as set out in Schedule "A" herein.
- 19 Any Person who fails to comply with an Order issued pursuant to this Bylaw is guilty of an offence and is liable, upon summary conviction, to a minimum and specified penalty as set out in Schedule "A" herein.
- 20 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 and a

Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.

GENERAL PENALTY PROVISION

- 20 In accordance with the **Municipal Government Act**, any Person that violates any provision of this Bylaw is guilty of an offence and is liable, upon conviction, to a maximum fine of \$10,000.00, or in default of the payment of the fine, to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

ENFORCEMENT

- 21 Where an Enforcement Officer has reasonable and probable grounds to believe that a Person has violated any provision of this Bylaw, the Enforcement Officer may commence Court proceedings against such Person by:
- (1) issuing the Person a Violation Ticket pursuant to the **Provincial Offences Procedure Act**; or
 - (2) swearing out an information and complaint against the Person.
- 22 Where an Enforcement Officer issues a Person a Violation Ticket in accordance with Section 21 of this Bylaw, the Enforcement Officer may either:
- (1) allow the Person to pay the minimum and specified penalty established in "Schedule A" for the offence by including the penalty in the Violation Ticket; or
 - (2) require a Court appearance of the Person when the Enforcement Officer believes that it is in the public interest pursuant to the **Provincial Offences Procedure Act**.
- 23 No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall in any way restrict, limit, prevent, or preclude the County from pursuing any other remedy in relation to an offence as may be provided by the **Municipal Government Act** or any other law of the Province of Alberta.

FAILURE TO COMPLY WITH ORDER

- 24 If a Person to whom an Order is issued fails to remedy the Property:
- (1) as directed in the Order;
 - (2) as required by the Enforcement Appeal Committee; or
 - (3) within the time specified, as determined by the County in its sole discretion acting reasonably;
- the County may, through its Designated Officers, employees, agents, or contractors, enter onto the Property in accordance with the **Municipal Government Act** in order to remedy the Property as specified under the Order or to otherwise prevent the continuing contravention of this Bylaw.
- 25 Notwithstanding Section 24 of this Bylaw, the County may commence with an application for a permanent injunction or other orders pursuant to the **Municipal Government Act** instead of, or before proceeding to, entering onto the Property to remedy the contraventions on the Property.

- 26 The County shall not be responsible for any incidental damage that may occur to a Property subject to an Order as a reasonable consequence of the County exercising its rights under this Bylaw.
- 27 In the event that the County comes into possession of any items as a consequence of exercising its rights under this Bylaw:
- (1) the County shall store those items for a period of 30 days and shall not be required to return any items stored in accordance with this Section until the Person to whom an Order was issued pays any removal and storage costs incurred by the County;
 - (2) After 30 days, any unclaimed items may be disposed of by the County in accordance with the **Municipal Government Act** and, if sold, the County may apply any monies realized from the sale to the expenses and costs incurred by it in accordance with Section 28 of this Bylaw;
 - (3) Notwithstanding Section 27(1), if, in the opinion of a Designated Officer, the items are unsafe, unsanitary, and/or perishable, the items may be disposed of at any time.

COUNTY COSTS

- 28 Any expenses or costs incurred through any enforcement action or measure taken by the County under this Bylaw, including the receipt of legal advice, are amounts owing to the County by the Owner or any other Person responsible for the contravention of this Bylaw and may be collected as a civil debt or added to the tax roll for the Property pursuant to the **Municipal Government Act**.

CAVEAT

- 29 The County may register a caveat pursuant to Section 546.1(1) of the **Municipal Government Act** in respect of any Order against the Certificate of Title for the Property that is the subject of the Order.
- 30 If a caveat is registered under this Bylaw, the County shall discharge the caveat when the Order has been complied with or when the County has performed the actions or measures necessary to remedy the contravention as stated in the Order.

OBSTRUCTION

- 31 No Person shall obstruct, hinder, or impede any Enforcement Officer, Designated Officer, or County employee, contractor, or agent in the exercise of any of their powers or duties under this Bylaw or make frivolous or vexatious complaints.

POWERS OF THE CHIEF ADMINISTRATIVE OFFICER

- 32 Without restricting any other power, duty, or function granted by this Bylaw, the Chief Administrative Officer may:
- (1) establish investigation and enforcement procedures with respect to residential, commercial, industrial, or other types of Property, and such procedures may differ depending on the type of Property in question;
 - (2) establish areas where activities restricted by this Bylaw are permitted;

- (3) establish forms for the purposes of this Bylaw;
- (4) delegate any powers, duties, or functions under this Bylaw to an employee of the County.

VICARIOUS LIABILITY

- 33 For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of employment with the Person or in the course of the agent exercising the powers or performing the duties on behalf of the Person under their agency relationship.

CORPORATIONS AND PARTNERSHIPS

- 34 When a corporation commits an offence under this bylaw, every principal, director, manager, employee, or agent of the corporation who authorized the act or omission that constitutes the offence, or assented to, acquiesced, or participated in the act or omission that constituted the offence, is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- 35 If a partner in a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence, or assented to, acquiesced, or participated in the act or omission that constituted the offence, is guilty of the offence.

CERTIFIED COPY OF RECORD

- 36 A copy of a record of the County, certified by the Chief Administrative Officer as a true copy of the original, shall be admitted into evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the Person signing it.

SEVERABILITY

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

STRICT LIABILITY OFFENCE

- 38 It is the intention of Council that all offences created by this Bylaw are to be interpreted as strict liability offences.

TRANSITIONAL

- 39 Bylaw No. C-5755-2003 is hereby repealed upon this Bylaw passing and coming into effect.
- 40 Bylaw C-7690-2017 is passed when it receives third reading, and is signed by the Reeve/Deputy Reeve and the Chief Administrative Officer or Designate.

SCHEDULE "A"
MINIMUM AND SPECIFIED PENALTIES

| PART | OFFENCE | MINIMUM AND SPECIFIED PENALTY | SECOND OFFENCE | THIRD OFFENCE | FOURTH AND SUBSEQUENT OFFENCE |
|-------------|---|--|---------------------------|--------------------------|--|
| 3 | Owner causes, allows, or permits Property to become a Nuisance , Unsightly, or Dangerous Property | \$500 | \$1000 | \$2000 | \$4000 |
| 6 | Fails to maintain Property in Reasonable State of Repair | \$500 | \$1000 | \$2000 | \$4000 |
| 7 | Fails to secure Unoccupied Building | \$500 | \$1000 | \$2000 | \$4000 |
| 8 | Fails to take steps to prevent Pests | \$500 | \$1000 | \$2000 | \$4000 |
| 19 | Fails to carry out Order as directed | \$1000 | \$2000 | \$3000 | \$5000 |
| 31 | Obstruction | \$500 | — | — | — |

READ A FIRST TIME IN COUNCIL this 19th day of September, 2017

READ A SECOND TIME IN COUNCIL this 19th day of September, 2017

UNANIMOUS PERMISSION FOR THIRD READING 19th day of September, 2017

READ A THIRD TIME IN COUNCIL AND PASSED this 19th day of September, 2017



Reeve



CAO or Designate

October 3, 2017

Date Bylaw Signed