

# BYLAW NO. 2015/33

## (Nuisance Abatement)

**A BYLAW OF RED DEER COUNTY, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR NUISANCE ABATEMENT AND CONTROL OF UNSIGHTLY PROPERTY WITHIN RED DEER COUNTY.**

UNDER AND BY VIRTUE OF THE AUTHORITY conferred upon it by section 7 of the *Municipal Government Act*, 2000, Chapter M-26, and amendments thereto, Red Deer County Council enacts as follows:

### **Part 1 – Short Title and Purpose**

- 1.0 This Bylaw may be cited as the Nuisance Abatement Bylaw. The purpose of this Bylaw is to provide for the abatement of nuisances and unsightly conditions that affect the safety, health and welfare of persons and affect the amenity of a neighbourhood.

### **Part 2 – Definitions**

- 2.0 In this Bylaw,
- 2.1 *Adjacent* means land that is contiguous to the land that is the subject of a nuisance complaint and includes land or a portion of land that would be contiguous if not for a public road, railway, river or stream.
- 2.2 *Committee* means the Nuisance Abatement Committee as established in Appeal Board Bylaw No. 2024/10, or any subsequent bylaw which establishes a committee to hear appeals pursuant to this bylaw.<sup>1</sup>
- 2.3 *County Manager* means the Chief Administrative Officer of Red Deer County.
- 2.4 *County* means Red Deer County, in the Province of Alberta.
- <sup>2</sup>2.4.1 *Municipal Government Act* means the *Municipal Government Act*, R.S.A. 2000 Ch. M-26 as amended.
- 2.5 *Nuisance* means and includes any use of or activity upon any premises which is offensive to any person acting reasonably, or has or may be reasonably expected to have a detrimental impact upon any person or other premises in the neighbourhood or is dangerous or an imminent danger to public health or safety, or materially depreciates the value of other land or improvements on adjacent land, and without limiting the generality of the foregoing, **may include** the following:
- (a) the failure to cut or control grass and vegetation, on the Premises and any land within the County that lies between the boundary of the Premises and the centre line of the highway which abuts or flanks the Premises;

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<sup>1</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>2</sup> Amended by Bylaw No. 2024/15 June 25, 2024

- (b) permitting a building or structure to deteriorate, become damaged or exist in a ruinous or dilapidated state;
  - (c) the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or sidewalk or roadway clearance;
  - (d) the failure to remove dead or hazardous trees or vegetation which is dangerous to the public safety;
  - (e) the generation of excessive dust, smoke, steam or other noxious emissions and permitting such dust, smoke, steam or noxious emission to escape from the premises;
  - (f) the storage or accumulation of dilapidated vehicles or the storage of vehicles;
  - (g) the storage, stockpile or accumulation of rubbish, garbage or other article or material including, but not restricted to, discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects;
  - (h) the failure to dispose of any rubbish, garbage or other article or material and discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects in a wrecked, discarded, or abandoned condition accumulated upon any premises;
  - (i) allowing a hole, excavation or accumulation of material that may be dangerous to public safety or health, to exist on premises;
  - (j) allowing conditions that result in an infestation of harmful rodents, vermin or insects on premises;
  - (k) the posting or exhibiting of any poster, sign, billboard, placard, writing, drawing or painting, or any signs or messages or pictures upon the premises, where the same becomes in a dilapidated and unsightly condition.
- 2.6 Notwithstanding Section 2.5, nuisance does not include noise.
- 2.7 *Owner* means the person as registered on title at the Land Titles Office.
- 2.8 *Person* includes a corporation, other legal entities and an individual having charge or control of a Premises.
- 2.9 *Premises* means and includes land, buildings, excavations, stockpiles, structures and appurtenances thereto.
- 2.10 *Unsightly condition* means
- (a) in respect of a structure, a structure whose exterior shows signs of significant physical deterioration, relative to adjacent lands and land uses or relative to other lands and land uses that could reasonably be considered to be in the neighbourhood, and

- (b) in respect of land, land that shows signs of serious disregard for general maintenance and upkeep, relative to adjacent lands and land uses or relative to other lands and land uses that could reasonably be considered to be in the neighbourhood.

### **Part 3 – Nuisance Abatement**

- 3.0 No person shall permit premises, or activities upon premises, to be or become a nuisance or be in an unsightly condition.

### **Part 4 – Nuisance Complaint Process**

- 4.1 Nuisance and unsightly condition complaints shall be referred to the Patrol Department.
- 4.2 If the investigator deems a complaint to be valid, the investigator may attempt to have the nuisance or unsightly condition remedied by serving an order pursuant to Section 546 of the *Municipal Government Act*, RSA 2000, c. M-26, as amended from time to time. The order may include but is not restricted to providing the following directions to the owner or occupant of the property<sup>3</sup>:
- (a) cease the activity which causes the nuisance or unsightly condition;
  - (b) change the way in which such person is carrying out any activity;
  - (c) direct any person to take any action or measure necessary to compel the elimination or abatement of the nuisance or unsightly condition, including:
    - (i) the removal of any thing or matter from the property, which constitutes the nuisance or unsightly condition;
    - (ii) the construction, installation or repair of a berm, screen or enclosure; and
    - (iii) enter into an agreement in a form to the satisfaction of the County.
  - (d) specify the time within which such person must comply with the directions contained in the notice;
  - (e) offer the owner or occupant of the property an opportunity to enter into any other voluntary agreement with the County to keep the premises clean, tidy and free of nuisances or unsightly conditions; and
  - (f) specify the time limits within which the actions must be completed.
- 4.3 If the investigator deems a complaint to not be valid, the complainant shall be notified in writing of this finding.
- 4.4 A person who receives an order under Section 4.2 may request the Committee to review the order by providing written notice to the County Manager at the address set out in the order within ten (10) days after the order is received and by paying the fee prescribed in the County Fee Bylaw.

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<sup>3</sup> Amended by Bylaw No. 2024/15 June 25, 2024

- 4.5 Deleted<sup>4</sup>
- 4.6 Deleted<sup>5</sup>
- 4.7 Deleted<sup>6</sup>
- 4.8 Deleted<sup>7</sup>
- 4.9 Deleted<sup>8</sup>
- 4.10 A person who fails to comply with an order issued under the provisions of Section 4.2 or a decision of the Committee referred to in Section 4.4 is guilty of an offence punishable on summary conviction and liable to the penalties prescribed under Part 8.<sup>9</sup>
- 4.11 The County may take whatever actions or measures are necessary to remedy any condition which constitutes a nuisance or unsightly condition if an order has been given under Section 4.2 and the person to whom the order is directed has not complied with the order within the time specified in the order and:
- (a) the time for the person to request review of the order by the Committee has passed, or;
  - (b) review of the order by the Committee occurred and the Committee issued a decision upholding the order.<sup>10</sup>
- 4.12 The expenses and costs of an action or measure taken by the County under Section 4.11 are an amount owing to the County by the person who was required to do something by the order or decision of the Committee and the County may:<sup>11</sup>
- (a) recover the amount owing as a debt due to the County, or;
  - (b) add the amount owing to the tax roll of any property for which the person is the assessed person.
- 4.13 Any notice, order or decision under this Bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:
- (a) by the notice, order or decision being personally delivered to the person to whom it is addressed; or
  - (b) by leaving it with a person apparently over the age of 16 years at the residence of the person to whom the notice, order or decision is addressed; or

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<sup>4</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>5</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>6</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>7</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>8</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>9</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>10</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>11</sup> Amended by Bylaw No. 2024/15 June 25, 2024

- (c) by sending it by regular mail in a prepaid cover addressed to the last known postal address of the person to whom the notice, order or decision is addressed, or as shown in the assessment roll as the case may be; or
- (d) by posting the notice, order or decision in a conspicuous place on the land referred to therein or on any building or erection thereon when the peace officer or designated officer of the County has reason to believe:
  - (i) that the person to whom the notice, order or decision is addressed is evading service thereof; or
  - (ii) for any reason it is improbable that the notice, order or decision will be received by the person to whom it is addressed within three days of the date of the notice, order or decision if it is delivered in any of the other ways mentioned in this section.

### **Part 5 – Appeals**

- 5.1 A person affected by the decision of a Committee under Section 4.4 may appeal to the Court of King's Bench by following the procedures set out in Section 548 of the MGA.<sup>12</sup>
- 5.2 Deleted<sup>13</sup>

### **Part 6 – Authority to Enter Premises**

- 6.1 A peace officer or a designated officer of the County may, after giving reasonable notice to the owner or occupier of land or the structure to be entered to carry out the inspection, remedy, enforcement or action:
- (a) enter such land or structure (other than a residence) at any reasonable time, and carry out the inspection, enforcement or action authorized or required by this bylaw,
  - (b) request anything be produced to assist in the inspection, remedy, enforcement or action, and
  - (c) make copies of anything related to the inspection, remedy, enforcement or action.
- 6.2 The peace officer or designated officer must display or produce, on request, identification showing that the person is authorized to make the entry.
- 6.3 In an emergency or in extraordinary circumstances, the peace officer or designated officer need not give reasonable notice or enter at a reasonable hour and may do the things in Section 6.1 (a) and (c) without the consent of the owner or occupant.

### **Part 7 – Procedure and Prosecution**

- 7.1 A person who contravenes this Bylaw is guilty of an offence.
- 7.2 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

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<sup>12</sup> Amended by Bylaw No. 2024/15 June 25, 2024

<sup>13</sup> Amended by Bylaw No. 2024/15 June 25, 2024

- 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.
- 7.3 A person shall not obstruct or hinder any person in the exercise of performance of the person's powers pursuant to this Bylaw.
- 7.4 The conviction of a person under the provisions of this Bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this Bylaw, or conditions, orders, or permits, issued in accordance with this Bylaw.
- 7.5 A certificate purporting to be signed by the County Manager stipulating any particular relative to his power under this Bylaw shall be admitted in evidence as prima facie proof of the facts stated in the certificate, without proof of the signature or authority of the person signing the certificate.

### **Part 8 – Penalties**

- 8.1 A person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and liable upon summary conviction to a fine of \$500.00 for a first offence, \$750.00 for a second offence and \$1,000.00 for a third or subsequent offence, and in default of payment of any penalty, to imprisonment for up to 6 months.
- 8.2 Where a peace officer reasonably believes that a person has contravened any provision of this Bylaw, the peace officer may, in addition to any other remedy at law, serve upon the person a violation tag, in the form used by the County, allowing payment of the penalty as set out in Section 8.1 of this Bylaw for the particular offence, which payment will be accepted by the County in lieu of prosecution for the offence, or a peace officer may issue a violation ticket in accordance with the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34 (as amended), allowing a voluntary payment of the penalty as set out in Section 8.1 of this Bylaw, or, requiring a person to appear in court without the alternative of making a voluntary payment. The recording of the payment of a penalty made to the County or the Provincial Court of Alberta shall constitute an acceptance of a guilty plea and conviction for the offence.
- 8.3 Any person who contravenes the same provision of this Bylaw after the date of the first contravention is liable to the specified penalties for such second, third or subsequent offence in the amount as set out in Section 8.1 of this Bylaw.
- 8.4 The imposition of a fine either by issuance of a violation tag, violation ticket or summary conviction in court shall not relieve any person so fined of responsibility for any expenses owing to the County pursuant to this Bylaw and nothing in this Bylaw shall limit any rights or remedies of the County pursuant to the *Municipal Government Act*.
- 8.5 Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

### **Part 9 – Effective Date and Repeal**

- 9.1 This Bylaw shall come into full force and effect at such time as it has received third reading and has been signed in accordance with the *Municipal Government Act*.
- 9.2 Bylaw 2006/26 is hereby repealed with the final passing of this Bylaw.

DONE AND PASSED IN OPEN COUNCIL WITH THE UNANIMOUS CONSENT OF ALL MEMBERS PRESENT.

**FIRST READING:       DECEMBER 8, 2015**  
**SECOND READING:     DECEMBER 8, 2015**  
**THIRD READING:      DECEMBER 8, 2015**

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MAYOR  
Date Signed:

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COUNTY MANAGER  
Date Signed: