

**TOWN OF BOW ISLAND
PROVINCE OF ALBERTA
BY-LAW NO. 2008:06**

BEING A BYLAW OF THE TOWN OF BOW ISLAND IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING, CONTROLLING, AND ABATING PUBLIC NUISANCES, UNTIDY PREMISES AND UNSIGHTLY PREMISES

WHEREAS pursuant to section 7 of the *Municipal Government Act*, a Council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) nuisances, including unsightly property; and
- (c) the enforcement of bylaws made under the *Municipal Government Act*.

WHEREAS Council deems it necessary to implement a bylaw to establish and enforce minimum standards relating to the state of maintenance of property, to regulate, control and abate nuisances generally, and to regulate untidy and unsightly premises within the Town of Bow Island;

NOW THEREFORE, the Council of the Town of Bow Island pursuant to that authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

1. TITLE

- 1.1 This bylaw may be cited as the “Nuisance, Untidy and Unsightly Premises Bylaw”.

2. PURPOSE

- 2.1 The purpose of this bylaw is to regulate the conduct and activities of people on privately owned property and immediately adjacent areas in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens of the Town.

3. DEFINITIONS

- 3.1 In this bylaw:

- (a) “Boulevard” means that portion of a street which lies between the roadway and the property line of the land abutting the said street.
- (b) “Building Material” means all construction and demolition material accumulated on a premises while constructing, altering, repairing or demolishing any structure and includes, but is not limited to, earth, wood debris, vegetation or rock displaced during such construction, alteration or repair;

- (c) “Council” means the Council of the Town of Bow Island.
- (d) “Court” means the Provincial Court of Alberta;
- (e) “Designated Officer” means a Bylaw Enforcement Officer, Special Constable or a member of the Royal Canadian Mounted Police or any other person so authorized to act on behalf of the Council of the Town of Bow Island.
- (f) “Litter” shall have the same meaning as in the *Litter Act* and the regulations there under.
- (g) “Motor Vehicle(s)” shall have the same meaning as in the *Traffic Safety Act* and the regulations there under.
- (h) “Occupier” means any person other than the Owner who is actually occupying, legally responsible for or in possession of the Property, including, but not limited to, a lessee, licensee, tenant or agent of the Owner.
- (i) “Owner” means:
 - i. a person who is registered under the *Land Titles Act* as the owner of the land or;
 - ii. a person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not become the registered owner thereof or;
 - iii. a person holding himself out as the person having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership or;
 - iv. a person controlling the property under construction.
- (j) “Property” means a parcel of land and includes the improvements located on the land.
- (k) “Reasonable Notice” means 48 hours notice.
- (l) “Refuse” means all solid and liquid wastes including, but not limited to, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, abandoned equipment, abandoned vehicles, tires, or any other form of waste or litter.
- (m) “Town” means the Town of Bow Island.
- (n) “Violation Ticket” means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act* and any regulations there under.
- (o) “Weeds” means any plants designated as restricted, noxious or nuisance weeds under the *Weed Control Act* or the regulations there under.

4. NUISANCE

- 4.1 An Owner or Occupier shall not cause, allow or permit a nuisance to exist on land they own or occupy.
- 4.2 For the purpose of greater certainty, a nuisance shall mean any act, deed, omission or thing, which is or could reasonably be expected to be annoying, troublesome, destructive, harmful, inconvenient or injurious to another person and/or his property, or anything troublesome or bothersome to other people for which complaints are received by the Town Municipal Office or a Designated Officer, whether or not such act, or deed or omission or thing constitutes nuisance at common law.

5. UNSIGHTLY PROPERTY

- 5.1 An Owner or Occupier shall not cause, allow or permit the land they own or occupy to be unsightly.
- 5.2 For the purpose of greater certainty, unsightly means land or improvements which, in the opinion of the Designated Officer, show signs of a serious disregard for general maintenance or upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:
- (a) excessive accumulation of material, including, but not limited to building materials, appliances, household goods, boxes, tires, grass, tree and hedge clippings, animal material, waste material, vehicle parts, garbage or refuse, whether of any apparent value or not;
 - (b) any loose litter, garbage or refuse whether located in a storage area, collection area or elsewhere on the land;
 - (c) damaged, dismantled or derelict vehicles or motor vehicles, whether insured or registered or not;
 - (d) smelly or messy compost heaps;
 - (e) in respect of a building or other structure, a building or other structure whose exterior, in the opinion of the Designated Officer, shows signs of significant physical deterioration, including damage, rot, or other deterioration;
 - (f) any graffiti displayed on a building or other structure that is visible from any surrounding property;
 - (g) in respect of a building, any inappropriate infiltration of air, moisture or water into the building due to peeling, unpainted or untreated surfaces, missing shingles or other roofing materials, broken or missing windows or doors, or any other hole or opening in the building;

- (h) fences, signs, billboards, garbage containers, playground equipment, or anything used or erected on the land which, in the opinion of the Designated Officer, is not kept in a reasonable state of repair; and
- (i) any accessible excavation, ditch, drain or standing water that could pose a danger to the public.

6. UNTIDY PROPERTY

6.1 An Owner or Occupier shall not cause, allow or permit the land they own or occupy to be untidy.

6.2 For the purpose of greater certainty, untidy means land or improvements which, in the opinion of the Designated Officer, are not in keeping with the condition of surrounding properties, including land or improvements that may have a detrimental effect on the market value of property in the surrounding area, some examples of which include:

- (a) any land or improvements which, in the opinion of the Designated Officer, are not regularly maintained;
- (b) unkempt grass or weeds higher than 10 centimetres;
- (c) any tree, shrub, other type of vegetation or any structure that:
 - i. interferes or could interfere with any public work or utility;
 - ii. obstructs any sidewalk adjacent to the land; or
 - iii. impairs the visibility required for safe traffic flow at any intersection adjacent to the land;
- (d) any vegetation that is not cut or trimmed or is not free of weeds; and
- (e) any land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighbouring property.

7. SIDEWALKS

7.1 An Owner or Occupier shall maintain any sidewalk adjacent to the land they own or occupy clear of all snow and ice within 48 hours of its accumulation.

8. BOULEVARDS

8.1 An Owner or Occupier shall maintain any boulevard adjacent to land they own or occupy by:

- (a) keeping any grass on the boulevard cut to a reasonable length; and
- (b) removing any accumulation of fallen leaves or other debris.

9. GRAFFITI

- 9.1 An Owner or Occupier shall remove any graffiti displayed on a building or other structure on the land they own or occupy within 14 days.

10. EXEMPTIONS & EXCEPTIONS

- 10.1 The provisions in this bylaw shall not be interpreted to prevent bona fide work diligently carried out in accordance with a development permit issued by the development authority.
- 10.2 The Owner or Occupier of land on which work is being carried out in accordance with a development permit issued by the development authority for the Town shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the lands they own or occupy.
- 10.3 Whether or not an Owner or Occupier has taken all reasonable steps to minimize the duration and visual impact of any resulting untidiness or unsightliness of the lands they own or occupy is a question of fact to be determined by the Court hearing a prosecution of an offence pursuant to the provisions of this bylaw.

11. CONTROL OF LITTER

- 11.1 No person shall place, deposit, throw or cause to be placed, deposited or thrown any litter upon any street, land, sidewalk, parking lot, park, playground or other public place or water course or on any land not his own, except in a receptacle provided for such purpose.
- 11.2 All private or general contractors shall during the construction, renovation or demolition of a building, keep the land in a reasonable condition so as not to constitute a nuisance and shall secure all manner of debris so as to prevent it from blowing onto any other private or public property.
- 11.3 A person who has placed, deposited or thrown or caused to be placed, deposited or thrown any litter upon any street, lane, sidewalk, parking place, park, playground or other public place or water course or on any property not his own shall forthwith remove it.

12. SALVAGE YARDS FENCED

- 12.1 All outdoor salvage yards, auto wreckers or other businesses which by their very nature appear to be untidy or unsightly, shall be obscured from view by approved screening from surrounding property.

13. PILING OR STORING MATERIAL OR EQUIPMENT ON TOWN PROPERTY

- 13.1 No person shall place, pile or store any material or equipment on Town owned property without first obtaining approval for such purposes from the Town.

13.2 Any person placing or causing to be placed any litter, rubbish, material or equipment on any Town property without first obtaining approval shall remove or cause the removal thereof within 24 hours.

14. ENFORCEMENT

14.1 The Designated Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter upon any Property, in accordance with s. 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other action required or authorized by this bylaw, the *Municipal Government Act*, or other statute.

14.2 When exercising his authority to enter onto a Property for inspection or enforcement under s. 14.1 of this bylaw, the Designated Officer shall provide the Owner or Occupier of the Property with Reasonable Notice.

14.3 Where a Designated Officer has reasonable grounds to believe that a person has violated any provision of this bylaw, the Designated Officer may commence enforcement against such person by issuing a written order to the person giving a specified time to remedy the violation.

14.4 Where a Designated Officer has reasonable grounds to believe that a person has violated any provision of this bylaw, the Designated Officer may commence court proceedings against such person by:

(a) Issuing the person a Violation Ticket pursuant to the provision of Part 2 of the *Provincial Offences Procedure Act*; or

(b) Swearing out an Information and Complaint against the person.

14.5 Where a Designated Officer issues a Violation Ticket in accordance with section 14.4 of this bylaw, the Officer may either:

(a) Require the person to pay the specified penalty as provided for the offence in section 15 of this bylaw by including such specified penalty in the Violation Ticket; or

(b) Require a Court appearance of the person where the Designated Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*.

14.6 No provision of this bylaw or any action taken pursuant to any provision of this bylaw shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a Property provided by the *Municipal Government Act*, or any other law of the Province of Alberta.

14.7 Notwithstanding whether a Violation Ticket has been issued under section 14.4 of this bylaw, any Owner or Occupier who contravenes this bylaw may be issued an order by a Designated Officer to remedy the contravention in any manner deemed necessary in the circumstances pursuant to section 545 or section 546 of the *Municipal Government Act*.

15. PENALTIES

15.1 Any person who contravenes any provision of this bylaw is guilty of an offence and is liable to a penalty as set out in Schedule "A" of this bylaw.

15.2 Where a contravention of this bylaw is of a continuing nature, more than one Violation Ticket may be issued by a Designated Officer provided however, that no more than one Violation Ticket shall be issued for each day that the contravention continues.

15.3 If the Designated Officer has reasonable grounds to believe that a person has contravened any provisions of this bylaw, such Officer may serve upon such person an offence ticket allowing payment of the specified penalty to the Town, which payment shall be accepted by the Town in lieu of prosecution for the offence.

16. AUTHORITY TO ENTER LANDS

16.1 Subject to s. 543 of the *Municipal Government Act*, a Designated Officer may, after giving Reasonable Notice to the Owner or Occupier of the land, enter the land to carry out the inspection, remedy, enforcement or action:

- (a) enter such land 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.

16.2 The Designated Officer must, on request, display or produce identification showing that the person is authorized to make the entry.

17. SEVERABILITY

17.1 If at any time, any provisions of this bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

18. RESCINDING BYLAW

18.1 This bylaw rescinds Bylaw 2007:01.

19. GENDER

19.1 In this bylaw, whenever the male gender is specified it shall be interpreted as meaning both male and female as applicable.

This bylaw shall come into force and take effect upon the final passing and proper signature thereof.

READ a first time this 9th day of June, A.D., 2008.

MAYOR
Date: July 10, 2008

TOWN MANAGER
Date: July 10, 2008

READ a second time this 23rd day of June, A.D., 2008.

READ a third and final time this 23rd day of June, A.D., 2008.

MAYOR
Date: July 10, 2008

TOWN MANAGER
Date: July 10, 2008

SCHEDULE "A"

SPECIFIED PENALTIES

SECTION	DESCRIPTION	FIRST OFFENCE	SECOND OFFENCE
4	Nuisance	\$250.00	\$500.00
5	Unsightly Premises	\$250.00	\$500.00
6	Untidy Premises	\$100.00	\$200.00
7	Sidewalks	\$100.00	\$200.00
8	Boulevards	\$100.00	\$200.00
9	Graffiti	\$250.00	\$500.00
11	Litter	\$250.00	\$500.00
13	Town Property	\$250.00	\$500.00