



## VULCAN COUNTY

Vulcan - Alberta

### **BYLAW 2019-022**

Being a Bylaw of Vulcan County, in the Province of Alberta, to enhance the livability of residential areas within the County's borders by regulating, controlling, and abating nuisances and remedying unsafe and unsightly premises.

**WHEREAS** pursuant to Section 7 of the *Municipal Government Act*, the council of a municipality may pass bylaws for municipal purposes respecting the safety, health, and welfare of people and the protection of people and property; nuisances, including unsightly property; and the enforcement of bylaws made under the *Municipal Government Act* or any other enactment;

**AND WHEREAS** the Council of Vulcan County deems it to be in the public interest to pass a bylaw to establish and enforce minimum standards relating to the state of maintenance of premises and to regulate, control and abate nuisances and unsightly premises within the Residential Areas of Vulcan County;

**AND WHEREAS** Council recognizes that Vulcan County is large and diverse, and includes multiple land uses and districts with distinct and unique needs;

**NOW THEREFORE the Council of Vulcan County, in the Province of Alberta, duly assembled enacts as follows:**

1. This Bylaw may be called the "Nuisance and Unsightly Premises Bylaw".

#### **2. Scope and Applicability**

- 2.1. This Bylaw applies only to lands designated Hamlet Residential, Hamlet Commercial, Rural Recreational, or Grouped Country Residential as defined in the Vulcan County Land Use Bylaw.

- 2.2. This Bylaw is not intended to negatively affect the regular operation of any permitted use including agriculture and its subsidiaries.
- 2.3. Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial Law or Regulation, other bylaw, or any requirements of any lawful permit, order, or license

### **3. Definitions**

- 3.1. In this Bylaw, unless the context otherwise requires:
  - a. "Animal Material" means any animal carcass, animal excrement (manure or other form of waste litter) and includes all material accumulated on premises from pet pens or pet yards;
  - b. "Building Material" means all construction and demolition material accumulated on a property while storing, constructing, altering, repairing, or demolishing any structure and includes, but is not limited to new or used metal, steel, aluminum, tin, or earth;
  - c. "CAO" means the individual appointed as Vulcan County's Chief Administrative Officer in accordance with the MGA;
  - d. "Construction" means the building or maintenance of roads, earthworks, or the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, including landscaping, home repair, property improvement, and any work in connection with that process;
  - e. "Council" means the Council of Vulcan County;
  - f. "County" means the municipal corporation of Vulcan County and the area within its jurisdictional boundaries, as the context requires;
  - g. "Court" means the Provincial Court of Alberta and/or the Alberta Court of Queen's Bench;
  - h. "Derelict Vehicle" means a Motor Vehicle, Trailer, or Recreational Vehicle that is inoperative by reason of disrepair, age, or mechanical condition;
  - i. "Land Use Bylaw" means Vulcan County's Land Use Bylaw.

- j. "MGA" means the *Municipal Government Act*, R.S.A. 2000 c.M-26, as amended or replaced from time to time.
- k. "Motor Vehicle" means a vehicle propelled by any power other than muscular power, or a moped, but does not include a bicycle, a power bicycle, an aircraft, or a motor vehicle that runs only by rails.
- l. "Nuisance" means any condition or use of Premises which, in the opinion of an Officer, constitutes an unreasonable interference with the use and enjoyment of other Premises, and includes, without limiting the foregoing, those circumstances listed in Section 5 of this Bylaw;
- m. "Occupant" means any Person, including the Owner of the Premises, who is in possession or control of the Premises, including but not limited to, a lessee, licensee, tenant, contractor, or agent of the Owner;
- n. "Officer" means Vulcan County's Director of Protective Services, a Vulcan County Development Officer, or a Vulcan County Community Peace Officer who is authorized to enforce Bylaws;
- o. "Owner" means a person registered under the Land Titles Act, R.S.A. 2000, c. L-4 as being the Owner of Property; a Person who is recorded as the owner of Property on the County's assessment roll for the Property; a Person who has purchased and has yet to become the registered Owner of Property; a Person controlling Property under construction; and/or a Person who is the lawful Occupant of Property;
- p. "Person" means any individual, firm, partnership, association, corporation, company, society or other legally constituted organization;
- q. "Premise" includes the lands, Buildings, and other structures located on any property situated in whole or in part within the County
- r. "Remedial Order" means an order written pursuant to Section 545 or 546, of the *Municipal Government Act*; RSA 2000, c. M-26, as amended or repealed and replaced from time to time;

- s. "Recreational Vehicle" means a vehicle or trailer that is designed, constructed and equipped, either temporarily or permanently, as a dwelling place, living abode or sleeping place;
- t. "Residential Area" means any land designated in the Land Use Bylaw as Hamlet Residential, Hamlet Commercial, Rural Recreational, or Grouped Country Residential;
- u. "Trailer" means a vehicle so designed that it may be attached to or drawn by a Motor Vehicle or tractor, and is intended to transport property or persons;
- v. "Unlicensed Vehicle" means a Vehicle that is not displaying a proper, current proof of licensing;
- w. "Unsafe Condition" means Property that poses or constitutes an undue or unreasonable hazard or risk to the safety, health or welfare of any Person or other Property including, but not limited to, a structurally unsound condition, fire hazard, or explosive hazard;
- x. "Unsightly Premises" means any Premises whether land, buildings, improvements to land or buildings, personal property or any combination of the above, located on lands within the County, which, in the opinion of an Officer, is unsightly to such a degree as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Unsightly Premises, or is otherwise detrimental to the surrounding area or in an unsightly condition as defined in the MGA, and includes, without limiting the foregoing, those circumstances listed in Section 5 of this Bylaw;
- y. "Violation Ticket" means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*;

#### **4. General Prohibitions**

- 4.1. No Person, including an Owner or Occupant of a Premises, shall cause or permit the Premises or use of that Premises to be in Unsafe Condition.
- 4.2. No Person, including an Owner or Occupant of a Premises, shall cause or permit the Premises or use of that Premises to constitute a Nuisance or Unsightly Premises.

- 4.3. Conditions constituting a Nuisance or Unsightly Premises may include, but shall not be limited to:
- (a) The unreasonable accumulation of rubbish, refuse, garbage, papers, packages, containers, bottles, cans, Animal Material, human excrement, sewage, dirt, soil, gravel, rocks, sod, yard material, ashes, petroleum products, hazardous materials, dissembled equipment or machinery, broken household furniture, chattels or goods, boxes, cartons, discarded fabrics and the like;
  - (b) Outdoor lighting that is not directed toward the ground or that creates glare and light pollution;
  - (c) Unreasonable accumulation of vegetation, including weeds, which, in the opinion of the Officer, are excessive, or demonstrate neglect by the Owner or Occupant; with the exception of natural woodland or brush, provided it does not constitute a fire hazard;
  - (d) The presence of more than one (1) visible Derelict Vehicle or Unlicensed Vehicle on any parcel of land smaller than three (3) acres, or the presence of more than two (2) visible Derelict Vehicles or Unlicensed Vehicles on any parcel of land larger than three (3) acres;
  - (e) Vehicle parts, equipment or machinery that has been rendered inoperative by reason of disassembly, age, or mechanical condition, including household appliances;
  - (f) Flow of water, which is reasonably within the control of the Owner or Occupant of the Premises, that is directed toward adjacent Premises and is likely to enter the adjacent Premises;
  - (g) The open or exposed storage on the Premises of any industrial fluid, including but not limited to, engine oil, brake fluid, or antifreeze;
  - (h) The accumulation of Building Material, whether new or used, unless the Owner or Occupant can establish that a Construction or renovation undertaking is being carried out and that the project has begun or the beginning of the work is imminent, and that the material is stacked or stored in an orderly manner;  
or
  - (i) Any form of scrap, litter, trash, or waste of any kind.

- (j) Vegetation which, in the opinion of the Officer, constitutes a fire hazard
- (k) Any building, structure, or other improvement that exhibits significant physical deterioration, including buildings and structures that suffer from:
  - a. Broken or missing windows, siding, shingles, shutters, eaves, roofing, or finishing materials; or
  - b. Clearly visible exterior or structural deterioration, damage, or decay, including significant fading, chipping, or peeling of painted surfaces

## **5. Exclusions and Exemptions**

5.1. The provisions of section 4 of this Bylaw shall not apply to the following situations or activities:

- (a) Bona fide and permitted commercial, industrial, agricultural, Construction, renovation, clean-up, storage, and other related activities; for which any applicable municipal, provincial, or federal permits have been granted, if required, from being carried out on, or in relation to a Premises
- (b) County activities;
- (c) Landfills and transfer stations within the County;
- (d) Any operation or activity operating under valid development approval conditions of the County outlined within.

5.2. The Owner or Occupant of a Premises that carries on or permits the carrying on of any of these activities as set out in section 5.1. of this Bylaw, shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting unsightliness of the Premises

## **6. Enforcement**

6.1. When making the determination of whether a Premises is a Nuisance, Unsightly Premises, or in an Unsafe Condition, an Officer may consider:

- (a) The general condition and state of upkeep and tidiness of other Premises located in the vicinity;

- (b) The nature, size, location and permitted use of the Premise, and the degree of effect of the alleged nuisance to the surrounding area;
  - (c) The nature of the Unsightly Premises, Unsafe Condition or Nuisance complained of, and the length of time such condition has persisted;
  - (d) Whether the Premises is undergoing Construction or renovation, and the length of time such activity has been ongoing;
  - (e) Whether the Owner and/or Occupant of the Premises has previously been notified of non-compliance with the provisions of this Bylaw; and
  - (f) Any other circumstances or factors relating to the Premises which the Officer considers relevant.
- 6.2. Where an Officer believes a Person has contravened any provision of this Bylaw, they may:
- (a) Issue a Remedial Order; and/or
  - (b) Issue a Violation Ticket.
- 6.3. If, at the discretion of an Officer, the Nuisance or Unsightly Premises would be effectively remedied by other means before issuing a Remedial Order or Violation Ticket, the Officer is permitted to do so.
- 6.4. Every Remedial Order issued under this Bylaw must:
- (a) Indicate the Person to whom it is directed;
  - (b) Identify the Premises to which the Remedial Order related by municipal address or legal description;
  - (c) Identify the date that it is issued;
  - (d) Identify how the Premises fails to comply with this or another bylaw;
  - (e) Identify the specific provisions of the Bylaw the Premises contravenes;

- (f) Identify the remedial action required to be taken to bring the Premises into compliance;
- (g) Identify the time within which the remedial action must be completed, which shall be a minimum of thirty (30) days;
- (h) Indicate that if the Remedial Action is not completed within the time specified, the County may take whatever action or measures necessary to remedy the contravention;
- (i) Indicate that the expenses and costs of any action or measures taken by the County under this section are an amount owing to the County by the Person to whom the order is directed;
- (j) Indicate that the expenses and costs referred to in this section may be attached to the tax roll of the property if such costs are not paid by a specified time;
- (k) Indicate that an appeal from the Remedial Order lies to the Nuisance Appeal Committee if a notice of appeal is filed in writing with the CAO within thirty (30) days of the Remedial Order being issued.

6.5. If, in the opinion of an Officer, the Remedial Order cannot be reasonably served, or if the Officer believes that the Person to whom it is directed is evading service, the Officer may post the Remedial Order in a noticeable place on the Premises to which the Remedial Order relates, or on the private dwelling place of the Owner of the Premises, as registered at the Land Titles Office or on the municipal tax roll for the Premises, and the Remedial Order will be deemed to be served three (3) days after the Remedial Order has been posted.

## **7. Appeal of Remedial Order**

- 7.1. A Person may appeal a Remedial Order issued pursuant to Section 6 of this Bylaw by filing a Notice of Appeal to the CAO
- 7.2. A Notice of Appeal shall be a fully completed copy of the form in Appendix B, signed by the appellant or by an agent on behalf of the appellant.
- 7.3. A notice of appeal shall be delivered within 30 days of receiving the Remedial Order to the CAO.
- 7.4. The Nuisance Appeal Committee shall hear the appeal within 14 days from the day of receipt of the notice of appeal.



- 7.5. The Nuisance Appeal Committee may confirm, rescind, or modify the Remedial Order that was issued.
- 7.6. A Person affected by the decision of the Nuisance Appeal Committee under this section may appeal to the Court of Queen's Bench within 30 days of the date of the Nuisance Appeal Committee's decision as per Section 548 of the *Municipal Government Act* if:
- (a) The procedure required to be followed by the *Municipal Government Act* is not followed; or
  - (b) The decision is patently unreasonable.
- 7.7. The Court may:
- (a) Confirm the decision; or
  - (b) Declare the decision invalid and send the matter back to the Nuisance Appeal Committee with directions.

## **8. Violation Tickets**

- 8.1. A Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a fine in an amount not less than established in this Bylaw, and not exceeding \$10,000. Without restricting the generality of this section, the following fine amounts are established for use on Violation Tickets if a voluntary payment option is offered:
- (a) The specified penalty for the offence as set out in Schedule "A";
- 8.2. An Officer is hereby authorized and empowered to issue a Violation Ticket to any Person whom the Officer has reasonable grounds to believe has contravened any provision of this Bylaw. A Violation Ticket issued with respect to a violation of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*. If a Violation Ticket is issued in respect to an offence, the Violation Ticket may specify the fine amount established by this Bylaw for the offence, or require a Person to appear in court without the alternative of making a voluntary payment.

- 8.3. A Person who commits an offence may: if a Violation Ticket is issued in respect of the offence; and if the Violation Ticket specifies the fine amount established by this Bylaw for the offence:
- (a) Make a voluntary payment to a Clerk of the Provincial Court, on or before the initial appearance date indicated in the Violation Ticket, the specified penalty set out in the Violation Ticket.
- 8.4. Where a Clerk of the Provincial Court records in the court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- 8.5. Nothing in this Bylaw shall be construed to limit or hinder the ability of the County to enforce this Bylaw by way of an order issued pursuant to Section 545 or 546 of the *Municipal Government Act*.

## **9. Severability**

- 9.1. Every provision of this Bylaw is independent of all other provisions. If any 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.

## **10. Effective Date**

- 10.1. This Bylaw shall come into force when it has received third and final reading.

Received first reading this 7<sup>th</sup> day of August, 2019

Received second reading this 18<sup>th</sup> day of September, 2019

Received third reading and finally passed this 2<sup>nd</sup> day of October, 2019

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Jason Schneider, Reeve

[original signed]

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Nels Petersen, CAO

**Schedule "A"**  
**Specified Penalties**

Section	Offense	Specified Penalty
4.2	Initial Nuisance and Unsightly Premises Offense	\$250
8.1(b)	Second Nuisance and Unsightly Premises Offense Within Sixty (60) Days of the First Offense	\$500
8.1(b)	All Subsequent Nuisance and Unsightly Premises Offenses Within Sixty (60) of the First Offense	\$1000