

BY-LAW NUMBER 2018/52

BY-LAW NO. 2018/52 is a By-law of the County of Wetaskiwin No. 10 in the Province of Alberta for the purpose of regulating, controlling and abating nuisances as well as for remedying dangerous and unsightly premises.

WHEREAS: Part 2 of the *Municipal Government Act*, Chapter M-26, 2000, and amendments thereto, of the Province of Alberta, provide that a Municipal Council may pass By-laws;

AND WHEREAS: the Council of the County of Wetaskiwin No. 10 deems it expedient and in the public's best interest to pass a By-law to establish and enforce minimum standards relating to the state of maintenance of property and to regulate, control and abate nuisances, and dangerous and unsightly premises within the County of Wetaskiwin No. 10;

NOW THEREFORE the Council of the County of Wetaskiwin No. 10, pursuant to the authority conferred upon it by the laws of the province of Alberta, duly assembled enacts as follows:

TITLE

1. This By-Law may be cited as the "Nuisance and Unsightly Premises By-law"

DEFINITIONS

2. In this By-Law:
 - 2.1 "Abandoned Equipment" means equipment or machinery which has been rendered inoperative by reason of its disassembly, damage, age or the deterioration of its mechanical condition and includes, but is not limited to, any household appliances stored outside of the residence or other structure, regardless of whether the household appliance is in an inoperative condition.
 - 2.2 "Abandoned Vehicle" means the whole or any part of any motor vehicle or farm implement that is rusted, wholly or partially wrecked, missing parts or equipment, dismantled, partly dismantled, or inoperative condition, and is not located within a structure or located on the lands such that it is concealed from view; or has no current license plate attached to it; or has no registration certificate issued for the current year.
 - 2.3 "Act" means the *Municipal Government Act*, R.S.A. 2000, Chapter M-26, as amended or repealed and replaced from time to time.
 - 2.4 "Adjacent" means land that is contiguous to a site and includes land that would be contiguous if not for a highway, pipeline, power-line, public road, public utility lot, railway, reserve lot, right-of-way, roadway, river or stream.

- 2.5 "Animal Material" means any animal excrement and includes, but is not limited to, all material accumulated on the lands including pet pens or pet yards.
- 2.6 "Ashes" means the powdery residue accumulated on a premise left after the combustion of any substance and includes any partially burnt wood, charcoal or coal.
- 2.7 "Building Material" means all material or debris accumulated on the lands which may result from constructing, altering, repairing, renovating or demolishing any structure and includes, but is not limited to, wood, gypsum board, roofing material, vinyl siding, metal, packaging material, containers of building material, gravel, concrete, asphalt, and any earth, vegetation or rocks displaced during such construction, renovation, demolition, alteration or repair of any building or other structure.
- 2.8 "By-law Enforcement Officer" means a person appointed under Section 555 and 556 of the Act, to enforce the County By-laws, and includes, but is not limited to, a member of the Royal Canadian Mounted Police (RCMP), Community Peace Officers as appointed under the *Peace Officer Act*, or; By-law Enforcement Officer who is authorized to enforce By-laws of the County.
- 2.9 "Council" means the Council of the County of Wetaskiwin No. 10, in the province of Alberta.
- 2.10 "County" means the County of Wetaskiwin No. 10, in the Province of Alberta.
- 2.11 "Court" means the Provincial Court of Alberta.
- 2.12 "Designated Officer" means a Designated Officer as defined in the Act.
- 2.13 "Garbage" means any household or commercial rubbish including, but not limited to, boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, as well as discarded clothing, fabric, furniture or other household items.
- 2.14 "Household Appliances" include but are not limited to such items as a freezer, refrigerator, stove, microwave oven, washing machine, clothes dryer, dishwasher, air conditioner, water heater, computer or television.
- 2.15 "Lands" includes land, buildings, fences, excavations, stockpiles, structures and appurtenances, or any personal property located thereupon, within the municipal boundaries of the County, including the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building or buildings, situated in whole or in part within the County and includes any land or buildings owned or leased by the County.

- 2.16 "Nuisance" means any condition, or use of, or emission from the lands which, in the opinion of a Designated Officer or Council constitutes an unreasonable interference with the use and enjoyment of other private or public lands.
- 2.17 "Occupy" or "Occupier" means residing on or to be in apparent possession or control of property.
- 2.18 "Order" means an Order issued by a Designated Officer as described in Section 545 or Section 546 of the Act, as applicable.
- 2.19 "Owner" means:
- a) any person who is registered under the *Land Titles Act* as the owner of the land; or
 - b) any person who is recorded as the owner of the lands on the tax assessment roll of the County; or
 - c) a person who has purchased or otherwise acquired the lands, whether he or she has purchased or otherwise acquired the lands directly from the owner or from another purchaser, and has not yet become the registered owner thereof; or
 - d) a person holding himself or herself out as the person exercising the power or authority of ownership of the property or lands, or who for the time being exercises the powers and authority of ownership over the lands; or
 - e) a person in control of the property or lands under construction.
- 2.20 "Person" means an individual, and the heirs, executors, administrators or other legal representatives of an individual, or any business entity including a firm, partnership, association, corporation, company, or society.
- 2.21 "Premise" means the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building or buildings, situated in whole or in part within the County and includes any land or buildings owned or leased by the County;
- 2.22 "Public Lands" mean all lands under the ownership and control of Her Majesty the Queen in Right of Canada, her Majesty the Queen in Right of Alberta, or the County.
- 2.23 "Reasonable State of Repair" means the condition of being
- a) structurally sound; and
 - b) free from significant damage; and
 - d) free from rot or other deterioration; and

- e) safe for its intended use; and
- f) so as not to present an unsightly condition

2.24 "Refuse" means

- a) all solid and liquid waste, and debris, junk or effluent belonging to or associated with a house or household or any industry, trade or business; or
- b) furniture or household appliances;
- c) abandoned vehicle or abandoned equipment;
- d) any unused or unusable material that by reason of its state, condition or excessive accumulation, in the opinion of a Designated Officer:
 - i. appears to have been discarded or abandoned; or
 - ii. appears to be useless or of no particular value; or
 - iii. appears to be used up or worn out in whole or in part; or
 - iv. 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, chemicals, petroleum products, hazardous materials, or any other form of waste or litter;
 - v. the open or exposed storage on the Lands of any industrial fluid, including, but not limited to, engine oil, brake fluid, or antifreeze;
 - vi. animal material, animal parts, animal carcasses or manure;

2.25 "Subsequent Offence" means any repeat violation of this By-law that occurs after a summary conviction.

2.26 "Unsightly Condition" means any property or part of it, whether land, buildings, improvements to lands or buildings, personal property, or any other combination of the above, located on land within the County that, in the opinion of a Designated Officer, is unsightly to such an extent 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, but is not limited to the following:

- a) any refuse, garbage, household appliances,
- b) animal materials, ashes, building material, and yard material;
- c) uncut grass or weeds.

2.27 "Vehicle" means a device in, on or by which a person or thing may be transported or drawn and includes a combination of vehicles but does not include a mobility aid.

2.28 "Yard Material" means waste material of an organic nature formed as a result of gardening, horticultural pursuits, or agricultural activities and includes grass, tree and hedge cuttings, and decomposing plants, leaves and weeds.

GENERAL PROHIBITION

4.1 No Owner or Occupier of any Lands shall cause, allow or permit the Lands or the use of the Lands to become or to continue to be an Unsightly Premise or Nuisance which may include, but shall not be limited to:

- a) allowing the presence of excavations, structures, materials or any other hazard or condition which, in the opinion of the Designated Officer, poses a danger to public safety;
- b) the failure to dispose of Refuse of:
 - i. other waste products, including those accumulating in temporary containers upon the Lands, or
 - ii. abandoned equipment or abandoned vehicles.
- c) the failure to keep the grass cut or mowed to 20 cm or less, including the grass on any boulevard or street, situated on County owned Lands adjoining, or abutting or adjacent to the Lands owned or occupied by him or her, to prevent such grass from growing to such a height as to be unsightly,
- d) the failure to control the presence of trees, shrubs, weeds or other vegetation which as a result of its location on the Lands makes it unsightly or has caused, or is causing damage to adjacent property, including Public Lands; or which does or could interfere or endanger the lines, poles, conduits, pipes, sewers or other works of the County; or which is or could be, a nuisance to any person using any publicly owned or maintained sidewalk or street or highway or public place, including the obstruction of sight lines desirable for the safe operation of motor vehicles,
- e) the failure to ensure that building materials and waste from building materials on the Lands are removed or contained and secured in such a manner that prevents such material from being blown off or scattered from the property and that the material is stacked or stored in an orderly manner;
- f) the failure to ensure that graffiti placed on the Premise is removed, painted over, or otherwise permanently blocked from public view within fourteen (14) days of the aware or notified of the presence of said graffiti;

- g) the failure to prevent any opaque or dense smoke or dust to be emitted to the atmosphere from the Lands, whether occupied or not; as well as failure to remove Ashes;
- h) the failure to remove from Lands any dead grass or brush or rubbish which is clearly untidy or unsightly, or which may harbour vermin or pests therein;
- i) the failure to keep the Lands in a Reasonable State of Repair, including a lack of repair or maintenance of buildings, fences, structures or Premises, which includes but is not limited to:
 - i. the significant deterioration of buildings, fences, structures or improvements, or portions of buildings, structures or improvements;
 - ii. broken or missing windows, siding, shingles, shutters, eaves or other building material;
 - iii. significant fading, chipping, peeling or absence of painted areas of buildings, fences, structures or improvements on the Premises

4.2 No Person shall permit Premises or activities upon Premises, to be or become an Unsightly Condition.

4.3 An Unsightly Property shall be considered relevant to adjacent Lands and land uses or relevant to other Lands and land uses that could reasonably be considered to be in the neighbourhood.

ENFORCEMENT

5.1 A By-law Enforcement Officer may investigate any complaint received in relation to any Nuisance or Unsightly Premises. Such investigation may include but is not limited to, a drive by inspection of the Premises or an inspection of the Premises pursuant to section 542 of the Act.

5.2 The Designated Officer, upon determining that a Premise is in an Unsightly Condition, may issue a warning or an Order to the Owner or Occupier for the contravention or any or all of them.

5.3 A Designated Officer or a By-law Enforcement Officer given authority by a Designated Officer may, for the purpose of ensuring that the provisions of this By-law are being complied with, enter onto any Lands, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other action required or authorized by this By-law, the *Municipal Government Act*, or other statute.

5.4 When exercising his or her authority to enter onto Lands for the purpose of inspection or enforcement under Section 5.1 and 5.3, a Designated Officer or a By-law Enforcement Officer with authority from the Designated Officer, shall provide the Owner or Occupier of the Property with

reasonable notice as required by the *Municipal Government Act*. For the purposes of this By-law, **FORTY EIGHT (48) HOURS** is deemed to be reasonable notice.

- 5.5 Where a contravention of this By-law has occurred or is occurring, a Designated Officer may issue an order to the Owner or Occupier for the contravention, or any or all of them, pursuant to section 545 of the Act.
- 5.6 An order issued by a Designated Officer under section 5.2 in the case of a Nuisance or Unsightly Premises:
 - a) direct the Person to whom the order is issued to stop doing something, or to change the way in which the Person is doing that thing;
 - b) direct the Person to take any action or measures necessary to remedy the contravention of this By-law, including but not limited to the cessation of an activity, the removal of unregistered vehicles and other debris, the cutting or removal of trees, shrubs and/or foliage, and the removal or demolition of a structure or improvement that is in contravention of a By-law and, if necessary, to prevent a re-occurrence of the contravention;
 - c) state a time period within which the Person must comply with directions stated in the order;
 - d) state that if the person does not comply with the directions provided within the order within the specified time, that the County may take any action or measure reasonable, with such expenses being recoverable against the person responsible;
 - e) state that a Person who receives a written order under section 545 or 546 may by written notice request Council to review the order within fourteen (14) days after the date the order is received, in the case of an order under section 545, and seven (7) days after the date the order is received, in the case of an order under section 546.
- 5.7 Any expenses or costs of any action or measure taken by the County pursuant to this By-law are an amount owing to the County by the Owner for the contravention, or any or all of them.
- 5.8 The expenses and costs incurred by the County in the enforcement of this By-law may be collected as a civil debt or added to the tax roll of any Lands for which the Owner is on title, pursuant to the Act.
- 5.9 If the County sells all or a part of a structure or improvement, or the contents of a structure or improvement, that have been removed pursuant to this By-law, the proceeds of the sale must be used to pay the expenses and costs incurred by the County in the enforcement of the order issued, and any excess proceeds must be paid to the Owner for the contravention, if entitled to them.
- 5.10 The County may register a caveat pursuant to the *Land Titles Act* and the Act in respect to any order issued under this By-law, against the Certificate of Title for the Lands that are the subject of the order.

- 5.11 If a caveat is registered, the County must 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, after the County has been reimbursed for expenses incurred remedying the contravention.
- 5.12 An order issued pursuant to this By-law is deemed to have been served on the Person whom it is addressed when the order has been:
- a) in the case of an individual, delivered personally to the individual, or left for the individual at his or her residence with a Person on the Premises who appears to be at least eighteen (18) years of age; or
 - b) upon confirmation of receipt of the order by the Person to whom it is addressed by registered mail; or
 - c) in the case of a partnership or corporation, by registered mail or personal delivery to either the registered office or business address of the partnership or corporation; or
 - d) in the event that the County is unsuccessful in its attempts to serve the order pursuant to the above, a By-law Enforcement Officer may post a copy of the order in a conspicuous place on the Premises referred to in the order, when the By-law Enforcement Officer has reason to believe that the Person to whom the order is addressed is evading service, and that there is no other reasonable means of service available.

VIOLATION TICKETS

- 6.1 Where a By-law Enforcement Officer believes that a Person has contravened any provision of this By-law, he or she may serve upon such person a violation ticket provided by this Section either personally or by mailing or leaving the same at his/her last known address and such service shall be adequate for the purpose of this By-law.
- 6.2 A violation ticket shall be in such form as determined by the County and shall state the Section of the By-law which was contravened and the amount which is provided in Schedule 'A' that will be accepted by any in lieu of prosecution.
- 6.3 Notwithstanding the provisions of this Section, a person to whom a violation ticket has been issued pursuant to this Section may exercise his or her right to defend any charge of committing a contravention of any of the provisions of this By-law.
- 6.4 When a clerk records in the Court records the receipt of a voluntary payment pursuant to this By-law and the *Provincial Offences Procedures Act*, that act of recording constitutes acceptance of the guilty plea and also constitutes the conviction and the imposition of a fine in the amount of the specified penalty.

SUMMARY CONVICTION

- 7.1 A Person who contravenes a provision of this By-law by doing something which he or she is prohibited from doing, or

by failing to do something which he or she is required to do, or by doing something in a manner different from that in which he or she is required or permitted to do by this By-law, is guilty of an offence and liable upon summary conviction to a fine for any other offence under this By-law, or upon failure to pay the fine and costs to imprisonment for a period not exceeding ninety (90) days unless such fine and costs of committal are paid sooner.

- 7.2 The levying and payment of any fine or the imprisonment for any period provided in the By-law shall not relieve a person from the necessity of paying any fee, charges, or costs for which he or she is liable under the provisions of this By-law.

SEVERABILITY

- 8.1 Should any provision of this By-law be declared invalid by a court of competent jurisdiction, then such provision shall be severed and the remaining By-law shall be maintained.

EFFECTIVE DATE

- 9.1 This By-law shall come into force and effect upon receiving third and final reading and being duly signed.
- 9.2 This By-law shall repeal By-law 2013/06 of the County of Wetaskiwin, in its entirety.

READ: A First time this 16 day of October, A.D., 2018.

READ: A Second time this 16 day of October, A.D., 2018.

READ: A Third time and finally passed this 16 day of October, A.D., 2018.

Original Signed

REEVE

Original Signed

CHIEF ADMINISTRATIVE OFFICER

**SCHEDULE "A"
SPECIFIED PENALTIES**

Section No.	Description	Specified Penalty
3.5	Fail to Comply with a Warning	\$ 200.00
	Subsequent Offences	\$ 500.00
3.6	Fail to Comply with an Order	\$ 500.00
	Subsequent Offences	\$ 1000.00
4.1(a)	Danger to Public Safety	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(b)	Accumulation of Refuse	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(b)(i)	Refuse	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(b)(ii)	Abandoned Equipment or Vehicles	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(c)	Allow Grass to Grow Longer than 25 cm	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(d)	Uncontrolled Vegetation	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(e)	Unsecured Building Materials	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(f)	Graffiti not Removed within 14 days	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(g)	Accumulate Ashes or Fail to Prevent Smoke	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(h)	Accumulation of Dead Grass, Brush or Rubbish	\$ 200.00
	Subsequent Offences	\$ 500.00
4.1(i)	Fail to Keep Lands in Reasonable State of Repair	\$ 200.00
	Subsequent Offences	\$ 500.00

Please be aware that the Owner will also be responsible for any costs incurred by the County of Wetaskiwin No. 10 to have the Lands cleaned, as well as to enforce any clean up Order

