

BYLAW NUMBER 2020/47

BYLAW NO. 2020/47 is a Bylaw 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: Section 7(c) of the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26.1, empowers Council to pass bylaws respecting nuisances, including unsightly property;

AND WHEREAS: the Council of the County of Wetaskiwin deems it expedient and in the best interest of the public to pass a Bylaw 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;

NOW THEREFORE: The Council of the County of Wetaskiwin No. 10, in the Province of Alberta, duly assembled, hereby enacts as follows:

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

2. Definitions

2.1. "Abandoned Equipment" shall mean 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 a residence or other structure, regardless of whether the household appliance is in an inoperative condition.

2.2. "Abandoned Vehicle" shall mean the whole or any part of any motor vehicle that:

2.2.1. Is rusted, wholly or partially wrecked, missing parts or equipment, dismantled, partly dismantled, or in an otherwise inoperative condition, and is not located within a structure or located on the lands such that it is concealed from view;

2.2.2. Has no current licence plate attached to it; or

2.2.3. Has no registration certificate issued for the current year.

2.3. "Act" shall mean the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26.1, as amended or repealed and replaced from time to time.

2.4. "Adjacent" shall mean land that is contiguous to a site and includes land that would be contiguous if not for a highway, pipeline, powerline, public road, public utility lot, railway, reserve lot, right-of-way, roadway, river, or stream.

2.5. "Animal Material" shall mean 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" shall mean the powdery residue accumulated on a premises left after the combustion of any substance and includes partially burnt wood, charcoal, or coal.

2.7. "Building Material" shall mean 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, gravel, concrete, asphalt, and any earth, vegetation, or rocks displaced during such activity.

- 2.8. "Bylaw Enforcement Officer" shall mean a person appointed as a Bylaw Enforcement Officer pursuant to the *Municipal Government Act*.
- 2.9. "Council" shall mean the Council of the County of Wetaskiwin No. 10.
- 2.10. "County" shall mean the County of Wetaskiwin No. 10.
- 2.11. "Court" shall mean the Provincial Court of Alberta.
- 2.12. "Designated Officer" shall mean a Designated Officer as defined in the Act.
- 2.13. "Garbage" shall mean any household or commercial rubbish including, but not limited to, cartons, bottles, cans, containers, packaging, wrapping material, waster paper, cardboard, or food, as well as discarded clothing, fabric, furniture, or other household items.
- 2.14. "Household Appliance" shall mean items including, but not limited to, a freezer, refrigerator, stove, microwave oven, washing machine, clothes dryer, dishwasher, air conditioner, water heater, computer, or television.
- 2.15. "Lands" shall mean land, buildings, premises, excavations, stockpiles, structures, and appurtenances, or any personal property located thereupon, within the municipal boundaries of the County.
- 2.16. "Mobility Aid" shall mean a device designed to assist walking or otherwise improve the mobility of an individual with a mobility impairment.
- 2.17. "Nuisance" shall mean any condition, 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.
- 2.18. "Occupy" or "Occupier" shall mean residing on or to be in apparent possession or control of property.
- 2.19. "Order" shall mean an Order issued by a Designated Officer under Sections 545 and/or 546 of the Act, as applicable.
- 2.20. "Owner" shall mean:
- 2.20.1. In the case of land, any person who is registered under the *Land Titles Act* as the owner of the land, or is listed on the County's assessment role as such; or
- 2.20.2. In the case of property other than land, any person who is in lawful possession or control of the property.
- 2.21. "Person" shall mean:
- 2.21.1. An individual, and the heirs, executors, administrators, or other legal representatives of an individual; or
- 2.21.2. Any business entity including a firm, partnership, association, corporation, company, or society.
- 2.22. "Premises" shall mean 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 including any land or buildings owned or leased by the County.
- 2.23. "Public Lands" shall 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.
- 2.24. "Reasonable State of Repair" shall mean the condition of being structurally sound, free from significant damage, rot, or other deterioration, safe for intended use, and not presenting an unsightly condition.
- 2.25. "Refuse" shall mean:
- 2.25.1. All solid and liquid waste, debris, junk, and/or effluent belonging to or associated with a house, household,

industry, trade, or business, 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;

- 2.25.2. Furniture or household appliances;
- 2.25.3. An abandoned vehicle or abandoned equipment;
- 2.25.4. Any industrial fluid, including, but not limited to, engine oil, brake fluid, or antifreeze, that is stored openly or exposed on the Lands;
- 2.25.5. Any animal material, animal parts, animal carcasses, or manure; or
- 2.25.6. Any unused or unusable material that, by reason of its state, condition, or excessive accumulating, in the opinion of a Designated Officer:
 - a) Appears to have been discarded or abandoned;
 - b) Appears to be useless or of no particular value;
 - c) Appears to be used up or worn out, in whole or in part;
- 2.26. "Subsequent Offence" shall mean any repeat violation of this Bylaw that occurs after a summary conviction.
- 2.27. "Unightly Condition" shall mean any property or part of it, whether land, buildings, improvements, personal property, or any combination thereof, located on land within the County that, in the opinion of a Designated Officer, is unsightly to such an extent as to detrimentally impact the repose, 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:
 - 2.27.1. Any refuse, garbage, or household appliances;
 - 2.27.2. Any animal materials, ashes, building materials, and/or yard materials; or
 - 2.27.3. Uncut grass or weeds.
- 2.28. "Vehicle" shall mean 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.
- 2.29. "Yard Material" shall mean 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.

3. General Prohibition

- 3.1. No Owner or Occupier of any Lands shall cause or permit the Lands or use of the Lands to become or to continue to be an Unightly Premises or Nuisance, which may include, but shall not be limited to:
 - 3.1.1. 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;
 - 3.1.2. The failure to dispose of Refuse;
 - 3.1.3. The failure to keep grass cut or mowed to 20 cm or less, including the grass on any boulevard or street, situated on County owned Lands adjoining, abutting, or adjacent to the Lands owned or occupied by the Owner or Occupier, to prevent such grass from growing to such a height as to be unsightly;

- 3.1.4. The failure to control the presence of trees, shrubs, weeds, or other vegetation which, as a result of its location on the Lands:
- a) makes it unsightly, has caused, or is causing damage to adjacent property, including Public Lands;
 - b) does or could interfere or endanger the lines, poles, conduits, pipes, sewers, or other works of the County; or
 - c) is or could be a nuisance to any person using any publicly owned or maintained sidewalk, street, highway, or public place, including the obstruction of sight lines desirable for the safe operation of motor vehicles.
- 3.1.5. 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;
- 3.1.6. The failure to ensure that graffiti placed on the Premises is removed, painted over, or otherwise permanently blocked from public view within fourteen (14) days of being aware or notified of the presence of said graffiti;
- 3.1.7. The failure to prevent any opaque or dense smoke or dust from being emitted to the atmosphere from the Lands, whether occupied or not, as well as the failure to remove any Ashes resulting thereof;
- 3.1.8. The failure to remove from the Lands any dead grass, brush, or rubbish which is clearly untidy or unsightly, or which may harbour vermin or pests therein;
- 3.1.9. 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 may include, but is not limited to:
- a) the significant deterioration of buildings, fences, structures, or improvements, either wholly or partially;
 - b) broken or missing windows, siding, shingles, shutters, eaves, or other building material; or
 - c) significant fading, chipping, peeling, or absence of painted areas of buildings, fences, structures, or improvements on the Premises.
- 3.2. An Unsightly Premises 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.

4. Enforcement

- 4.1. A Bylaw 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.
- 4.2. A Designated Officer, upon determining that a Premises is in an Unsightly Condition, or that any other contravention of this Bylaw has occurred or is occurring, may issue a warning or an Order to the Owner or Occupier for a contravention.
- 4.2.1. If multiple contraventions have been determined, a warning or an Order may be issued to the Owner or Occupier for any or all of them.
- 4.3. A Designated Officer, or a Bylaw Enforcement Officer given authorization by a Designated Officer, may, for the purpose of

ensuring that the provisions of this Bylaw are being complied with, enter onto any Lands, in accordance with Section 542 of the Act, to carry out an inspection, enforcement, or other action required or authorized by the Bylaw, the Act, or any other applicable statute.

- 4.4. When exercising their authority to enter onto Lands for the purpose of inspection under Sections 4.1 and/or 4.3 of this Bylaw, a Designated Officer, or a Bylaw Enforcement Officer given authorizing by a Designated Officer, shall provide the Owner or Occupier of the Property with reasonable notice as required by the Act.
 - 4.4.1. For the purposes of this Bylaw, forty eight (48) hours is deemed to be reasonable notice.
- 4.5. An Order issued by a Designated Officer under Section 4.2 of this Bylaw in the case of a Nuisance or Unsightly Premises shall:
 - 4.5.1. Direct the Person to whom the Order is issued to stop doing something, or to change the way the Person is doing that thing;
 - 4.5.2. Direct the Person to take any action or measures necessary to remedy the contravention, 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 this Bylaw and, if necessary, to prevent a re-occurrence of the contravention;
 - 4.5.3. State a time period within which the Person must comply with directions stated in the Order;
 - 4.5.4. 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; and
 - 4.5.5. State that a person who receives a written Order under Sections 545 or 546 of the Act may, by written notice, request Council to review the Order:
 - a) within fourteen (14) days after the date the order is received, in the case of an order under Section 545; or
 - b) within seven (7) days after the date the order is received, in the case of an order under Section 546.
- 4.6. Any expenses or costs of any action or measure taken by the County pursuant to this Bylaw are an amount owing to the County by the Owner for the contravention, or any or all of them in the case of multiple contraventions, and may be collected as a civil debt or added to the tax roll of any Lands for which the Owner is on tile, pursuant to the Act.
- 4.7. 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 Bylaw, 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.
- 4.8. The County may register a caveat, pursuant to the *Land Titles Act* and the Act and in respect to any Order issued under this Bylaw, against the Certificate of Title for the Lands that are the subject of the Order.
- 4.9. If a caveat is registered pursuant to Section 4.9, 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.

- 4.10. An Order issued pursuant to this Bylaw is deemed to have been served on the Person to whom it is addressed under the following conditions:
 - 4.10.1. Upon confirmation of receipt of the Order by the Person to whom it addressed by registered mail;
 - 4.10.2. In the case of an individual, when the Order has been delivered personally to the individual or left for the individual at their residence with a Person on the Premises who appears to be at least eighteen (18) years of age; or
 - 4.10.3. In the case of a partnership or corporation, when the Order has been delivered by either registered mail or personal delivery to either the registered office or business address of the partnership or corporation.
- 4.11. In the event that the county is unsuccessful in its attempts to serve the Order pursuant to Section 4.11 of this Bylaw, a Bylaw Enforcement Officer may post a copy of the Order in a conspicuous place on the Premises referred to in the Order, when the Bylaw 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.

5. Violation Tickets

- 5.1. Where a Bylaw Enforcement Officer believes that a Person has contravened any provision of this Bylaw, that Officer may serve upon such Person a violation ticket pursuant to this Section, either personally or by mailing or leaving the same at the Person's last known address, and such service shall be adequate for the purposes of this Bylaw.
- 5.2. A violation ticket shall be in such form as determined by the County and shall state the Section of the Bylaw which was contravened, and the amount which is provided in Schedule "A" that will be accepted in lieu of prosecution.
- 5.3. Notwithstanding the provisions of this Section, a Person to whom a violation ticket has been issued pursuant to this Bylaw may exercise their right to defend any charge of committing a contravention of any of the provisions of this Bylaw.
- 5.4. When a clerk in the Court records the receipt of a voluntary payment pursuant to this Bylaw 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.

6. Summary Conviction

- 6.1. A Person who contravenes a provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a fine for any other offence under this Bylaw, 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.
- 6.2. The levying and payment of any fine, or the imprisonment for any period, provided in this Bylaw shall not relieve a Person from the necessity of paying any fee, charges, or costs for which they are liable under the provisions of this Bylaw.

7. Severability

7.1. Should any provision of this Bylaw be declared invalid by a Court of competent jurisdiction, then such provision shall be severed, and the remaining portion of the Bylaw shall be maintained.

8. Repeal

8.1. Upon passage of Bylaw 2020/47, Bylaw 2018/52 shall be repealed in its entirety.

9. Effective Date

9.1. This Bylaw shall come into force and effect upon passage of Third and Final Reading and being duly signed and sealed.

READ: A First time this 14th day of July, A.D., 2020.

READ: A Second time this 14th day of July, A.D., 2020.

READ: A Third time and finally passed this 14th day of July, A.D., 2020.

Original Signed _____

REEVE

Original Signed _____

CHIEF ADMINISTRATIVE OFFICER

SCHEDULE "A"
SPECIFIED PENALTIES

Section No.	Description	Specified Penalty
4.2	Fail to Comply with a Warning	\$ 200.00
	Subsequent Offences	\$ 500.00
4.6	Fail to Comply with an Order	\$ 500.00
	Subsequent Offences	\$ 1000.00
3.1.1	Danger to Public Safety	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.2	Accumulation of Refuse	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.3	Allow Grass to Grow Longer than 20 cm	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.4	Uncontrolled Vegetation	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.5	Unsecured Building Materials	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.6	Graffiti not Removed within 14 days	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.7	Accumulate Ashes or Fail to Prevent Smoke	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.8	Accumulation of Dead Grass, Brush or Rubbish	\$ 200.00
	Subsequent Offences	\$ 500.00
3.1.9	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