

# MUNICIPAL DISTRICT OF ROCKY VIEW NO. 44

## BYLAW NO. C-5755-2003

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A Bylaw of the Municipal District of Rocky View No. 44 to regulate and abate unsightly premises.

**WHEREAS** Section 7 of the *Municipal Government Act*, RSA 2000, c. M-26 permits the Council to pass bylaws respecting nuisances, including unsightly property; the safety, health and welfare of people; and the protection of people and property; and

**WHEREAS** the Council deems it necessary to provide for an efficient means of regulating and encouraging the abatement of unsightly premises within the Municipal District of Rocky View No. 44; and

**WHEREAS** the Council deems it necessary to repeal and replace Bylaw No. C-5641-2002 the existing “Nuisance and Untidy and Unsightly Premises Bylaw”; and

**WHEREAS** the Council recognises that the Municipal District is large and diverse, and includes areas where residential, commercial, agricultural and industrial uses of land and buildings are permitted;

**NOW THEREFORE**, the Council of The Municipal District of Rocky View No. 44, duly assembled, hereby enacts as follows:

### **TITLE**

1. This Bylaw may be cited as the “Unsightly Premises Bylaw”.

### **DEFINITIONS**

2. In this Bylaw, unless the context otherwise requires:
  - (a) “Animal Material” means any animal excrement and includes all material accumulated on a premises from pet pens or pet yards, stables, veterinary clinics, animal hospitals, kennels or feed lots;
  - (b) “Ashes” means the powdery residue accumulated on a premises left after the combustion of any substance and includes any partially burnt wood, charcoal or coal;
  - (c) “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, vegetation or rock displaced during such construction, alteration or repair;
  - (d) “Council” means the Council of the Municipal District of Rocky View No. 44;
  - (e) “Court” means the Provincial Court of Alberta;

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- (f) “Enforcement Officer” means a Bylaw Enforcement Officer or Special Constable employed by the Municipal District, and includes a member of the R.C.M.P. who is authorised to enforce Bylaws of the Municipal District;
- (g) “Garbage” means material composed of organic matter which is or may become decomposed, including the by-products from the preparation, consumption or storage of food;
- (h) “including” when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- (i) “Municipal District” means:
  - (i) The Municipal District of Rocky View No. 44, a municipal district duly established pursuant to the laws of the Province of Alberta; or
  - (ii) the area within the legal boundaries of The Municipal District of Rocky View No. 44, as the context of this Bylaw so requires;
- (j) “*Municipal Government Act*” means the *Municipal Government Act*, RSA 2000, c. M-26, as amended or replaced from time to time;
- (k) “Owner” of a property or Premises means:
  - (i) a Person who is registered under the *Land Titles Act* as the owner of the land;
  - (ii) a Person who is recorded as the owner of the property on the tax assessment roll of the Municipal District;
  - (iii) 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 yet become the registered owner thereof;
  - (iv) a Person holding himself out as the person having the powers and authority of ownership of the property or Premises or who for the time being exercises the powers and authority of ownership;
  - (v) a Person controlling the property or Premises under construction; or
  - (vi) a Person who is the occupant of the property or Premises pursuant to a lease agreement, license or permit;
- (l) “Person” means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- (m) “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 Municipal District and includes any land or buildings owned or leased by the Municipal District;
- (n) “*Provincial Offences Procedure Act*” means the *Provincial Offences Procedure Act*, RSA 2000, c. P-34, and the regulations thereof, as amended or replaced from time to time;

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- (o) “Residential Building” means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, hospital, lodging house, hotel, motel, mobile home, tent, trailer, motor home, camper or recreational vehicle of any type;
- (p) “Residential Development” means any land that is the site of one or more Residential Buildings, excepting farms, ranches, and other land which is used for purely agricultural purposes;
- (q) “Unsightly Premise” means any property or part of it which is characterized by visual evidence of a lack of general maintenance and upkeep by the excessive accumulation on the premises of:
  - (i) any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement, sewage, the whole or a part of an animal carcass, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken household chattels or goods, boxes, cartons, discarded fabrics, and the like;
  - (ii) the whole or any part of any vehicle or vehicles which are inoperative by reason of disrepair, removed parts or missing equipment;
  - (iii) equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances;
  - (iv) animal material, ashes, building material, garbage, and yard material as defined in this Bylaw; or
  - (v) any other form of scrap, litter, trash, or waste of any kind;
- (r) “Vehicle” has the same meaning as in the Traffic Safety Act;
- (s) “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**

- 3. No Owner or Owners of a Premise shall cause, allow or permit the Premise to become or to continue to be an Unsightly Premise as defined in this Bylaw.
- 4. (a) Whether or not a particular Premise is “characterized by visual evidence of a lack of general maintenance” as a result of the “excessive accumulation” of the materials listed in Section 2(q) of this Bylaw are questions of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this Bylaw.
- (b) When making the determination as to whether a particular Premise constitutes an “Unsightly Premise” the Court’s considerations shall include any admissible evidence as to:
  - (i) the general condition and state of tidiness of the neighbouring or surrounding Premises;

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- (ii) the location and permitted use of the Premise and whether or not the Premise is located within a Residential Development;
- (iii) the period of time the Premise has been in the state complained of;
- (iv) whether or not the Premise is undergoing construction or renovation, and the period of time that such activity has been ongoing; and
- (v) any other circumstances or factors relating to the Premise which the Court deems are relevant to the said determination.

**EXEMPTIONS & EXCEPTIONS**

- 5. The provisions of this Bylaw shall not be interpreted to prevent bona fide and permitted commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other related activities from being carried out on, or in relation to a Premise.
- 6. The Owner of a Premise that carries on, or permits the carrying on of any activities referred to in Section 5 of this Bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the Premise.
- 7. Whether or not an Owner has taken “all reasonable steps... to minimise the duration and visual impact of any resulting untidiness or unsightliness” of a Premise, as referred to in Section 6 of this Bylaw, is a question of fact to be determined by the Court hearing a prosecution of an offence pursuant to the provisions of this Bylaw.

**GENERAL PENALTY PROVISION**

- 8. Any Person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000 or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

**MINIMUM AND SPECIFIED PENALTIES**

- 9. The minimum and specified penalty for a violation of any provision of this Bylaw is a fine in the amount of \$500.
- 10. Notwithstanding Section 9 of this Bylaw, if a Person violates the same provision of this Bylaw twice within a one-year period, the minimum and specified penalty for the second such violation shall be a fine in the amount of \$1000.

**ENFORCEMENT**

- 11. Where an Enforcement Officer has reasonable grounds to believe that a Person has violated any provision of this Bylaw, the Enforcement Officer may commence Court proceedings against such Person by:

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- (a) Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act; or
  - (b) Swearing out an Information and Complaint against the Person.
12. Where an Enforcement Officer issues a Person a Violation Ticket in accordance with Section 11 of this Bylaw, the Officer may either:
- (a) allow the Person to pay the specified penalty as provided for the offence in Sections 9 and 10 of this Bylaw by including such specified penalty in the Violation Ticket; or
  - (b) require a Court appearance of the Person where the Enforcement Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act.
13. No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Municipal District from pursuing any other remedy in relation to a Premises provided by the Municipal Government Act, or any other law of the Province of Alberta.

**SEVERABILITY**

14. 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.

**STRICT LIABILITY OFFENCE**

15. It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

**REPEAL**

16. Bylaw No. C-5641-2002 is hereby repealed.

**EFFECTIVE DATE**

17. This Bylaw shall come into force and effect upon it receiving third reading.

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**READINGS BY COUNCIL**

First reading passed in open Council, assembled in the City of Calgary, in the Province of Alberta this 22nd day of July, 2003, on a motion by Councillor Konschuk.

Second reading passed in open Council, assembled in the City of Calgary, in the Province of Alberta this 22nd day of July, 2003, on a motion by Councillor Kent.

Permission for third reading was passed unanimously in open Council, assembled in the City of Calgary in the Province of Alberta this 22nd day of July, 2003, on a motion by Councillor McLean.

Third and final reading passed in open Council, assembled in the City of Calgary, in the Province of Alberta this 22nd day of July, 2003, on a motion by Councillor Habberfield.

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**REEVE OR DEPUTY REEVE**

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**MUNICIPAL SECRETARY**