

**MUNICIPAL DISTRICT OF PINCHER CREEK NO.9**

**BYLAW # 1366-25**

**COMMUNITY STANDARDS**

**BEING A BYLAW OF THE MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9, IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL COMMUNITY STANDARDS, NUISANCES AND UNSIGHTLY PREMISES IN THE MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9**

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**WHEREAS** pursuant to Section 7 of the Municipal Government Act, R.S.A. 2000, Chapter M-26 and amendments thereto, the council of the Municipal District of Pincher Creek No. 9 may pass bylaws for municipal purposes respecting:

- a) the safety, health and welfare of people and the protection of people and property;
- b) regulating nuisances, including unsightly property; and
- c) the enforcement of bylaws;

**WHEREAS** the Municipality deems it necessary to provide for the regulation of community standards, nuisances and unsightly properties;

**WHEREAS** the Municipality deems it necessary to consolidate and replace the existing Noise Bylaw #1256-14 and the Unsightly Premise Bylaw #1261-15;

**NOW THEREFORE**, be it resolved that the Council of the Municipal District of Pincher Creek No. 9, duly assembled, enacts as follows:

**Part 1 - Title, Definitions and Interpretation**

**Title:**

1. This Bylaw may be cited as the Community Standards Bylaw.

**Definitions**

2. In this Bylaw, the following words shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the past and future; words in the plural include the singular; words in the singular include the plural; words in the masculine gender include feminine and neutral genders; words in the feminine and neutral genders include the masculine gender. The word “shall” is always mandatory and not merely directory.
  - (a) “Boulevard” has the meaning as defined in the Traffic Safety Act;
  - (b) “Building” includes a structure or anything constructed or placed on, in, over or under land but does not include a highway, road or bridge forming part of a highway or road;
  - (c) “Building Material” means all material or debris associated with the construction, renovation or demolition of any building or other structure and includes, but is not limited to: wood, gypsum board, roofing, pipe, wiring, vinyl or other siding, metal, packaging materials, containers, gravel, concrete, asphalt, and any earth, vegetation or rock displaced during such construction, renovation or demolition;
  - (d) “Castle Mountain Resort” includes all land use districts, as defined by the Municipality’s Land Use Bylaw, as being a part of the Castle Mountain Resort;
  - (e) “Chief Administrative Officer (CAO)” means the person designated as the Chief Administrative Officer for the Municipality;
  - (f) “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;

- (g) “Contractor” means a company, person or persons contracted by the Municipality to deliver services to the Municipality or on behalf of the Municipality;
- (h) “Council” means the Council of the Municipal District of Pincher Creek No. 9;
- (i) “Day Time” means the period
  - (i) beginning at 7:00 am and ending at 11:00 pm of the same day on a weekday; or
  - (ii) beginning at 8:00 am and ending at 11:00 pm of the same day on a weekend;
- (j) “Emergency” has the meaning as defined at Section 541 of the *Municipal Government Act*;
- (k) “Enforcement Services Appeal Board” means the Enforcement Services Appeal Board as appointed by Council;
- (l) “Garbage” means any household or commercial rubbish or refuse including, but not limited to: boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, organic waste, discarded clothing or fabric and any other discarded household or commercial items;
- (m) “Hamlet” includes the Hamlets of: Beaver Mines, Lowland Heights, Lundbreck, Pincher Station, and Twin Butte;
- (n) “Heavy Vehicle” means a vehicle or vehicle with trailer attached, exceeding any one of the following:
  - (i) Two axles;
  - (ii) Twelve and one half (12.5) meters in length; or
  - (iii) A maximum allowable weight of five thousand five hundred (5500) kilogramsbut does not include recreational vehicles, equipment or vehicles owned and operated by the Municipality used for road maintenance or construction;
- (o) “Highway” has the meaning as defined in the *Traffic Safety Act*;
- (p) “Imminent” means an action or activity that is ready to take place or is happening very soon;
- (q) “Inspection” has the same meaning as defined in Section 542(1) of the *Municipal Government Act*;
- (r) “Land Titles Act” means the Land Titles Act, R.S.A. 2000, Chapter L-4, as amended or replaced from time to time;
- (s) “Land Use Bylaw” means the Municipality’s current Land Use Bylaw, as amended or replaced from time to time;
- (t) “Motor Vehicle” has the meaning as defined in the *Traffic Safety Act*;
- (u) “Municipal Government Act” means the Municipal Government Act, R.S.A. 2000, c. M-26, as amended or replaced from time to time;
- (v) “Municipality” means the Municipal District of Pincher Creek No. 9;

- (w) “Night Time” means the period beginning at 11:00 pm and ending the following day at
  - (i) 7:00 am if the following day is a weekday; or
  - (ii) 8:00 am if the following day is a weekend;
- (x) “Noise” means any loud, unnecessary or unusual sound or any sound whatsoever that unreasonably annoys, aggravates or disturbs people, or which detracts from the comfort, peace, or enjoyment of peoples’ property within the boundaries of the Municipality;
- (y) “Normal Farm Practice” mean a practice that is conducted by a farm business in a manner consistent with accepted customs and standards as established and followed by similar farm businesses under similar circumstances and includes agricultural activities that make use of technology in a manner consistent with proper advanced farm management practices;
- (z) “Nuisance” means any condition or use of the premises which constitutes an unreasonable interference with the use and enjoyment of other premises and includes, without limiting the generality of the foregoing, those circumstances listed in Section 9 of this Bylaw;
- (aa) “Obstruction” means any person who
  - (i) refuses, interferes with, prevents or attempts to prevent an inspection; or
  - (ii) interferes with a peace officer in any manner that impairs or hinders a lawful investigation being conducted by the peace officer;
- (bb) “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;
- (cc) “Off Highway Vehicle” has the meaning as defined in the *Traffic Safety Act*;
- (dd) “Order to Remedy” means an order written pursuant to Section 546 of the *Municipal Government Act*;
- (ee) “Owner” means any natural person or body corporate
  - (i) who has legal title to the property;
  - (ii) who is registered under the Land Titles Act as the owner of the land or property;
  - (iii) who is recorded as the assessed person or body corporate on the tax assessment roll of the Municipality;
  - (iv) 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; or
  - (v) who holds themselves out as the person having the power and authority of ownership of the premises or who for the time being, exercises the powers of authority and ownership;
- (ff) “Peace Officer” means a person engaged by the Municipality as a Community Peace Officer, a Bylaw Enforcement Officer, a Designated Officer or a member of the Royal Canadian Mounted Police to carry out the provisions of this Bylaw. For the purpose of inspection and enforcement under this Bylaw, a Peace Officer is a Designated Officer of the Municipality;
- (gg) “Person” means an individual or any business entity including a firm, partnership, association, corporation, company or society, having charge or control of a premises;

- (hh) “Premises” means the lands, buildings and other structures located on any property situated in whole or in part within the Municipality and includes any buildings owned or leased by the Municipality and any boulevard which abuts or adjoins the premises, including up to the center of lanes or alleys at the rear or side of premises;
- (ii) “Provincial Offences Procedures Act” means the Provincial Offences Procedures Act, R.S.A. 2000, Chapter P-25 and the regulations thereunder, as amended or replaced from time to time;
- (jj) “Public Place” means any place, including privately owned or leased property, to which the public reasonably has or is permitted to have access;
- (kk) “Registered Owner” means a natural person or body corporate to which a motor vehicle is registered pursuant to the provisions of the *Traffic Safety Act*;
- (ll) “Remedial Order” means an order written pursuant to Section 545 of the *Municipal Government Act*;
- (mm) “Residential Development” means any land that is the site of one or more residential buildings and is designated by the Municipality’s Land Use Bylaw as one of the following land districts:
  - (i) Castle Mountain Resort Medium Density Residential (CMMDR);
  - (ii) Castle Mountain Resort Residential 1 (CMR-1);
  - (iii) Castle Mountain Resort Residential 2 (CMR-2);
  - (iv) Castle Mountain Resort Seasonal Residential (CMSR);
  - (v) Grouped Country Residential (GCR);
  - (vi) Hamlet Single-Detached Residential 1 (HR-1);
  - (vii) Hamlet Residential 2 (HR-2); and
  - (viii) Hamlet Manufactured Home Park 3 (HR-3);
- (nn) “Traffic Safety Act” means the Traffic Safety Act, RSA 2000, c. T-6 and Regulations thereof, as amended or replaced from time to time;
- (oo) “Unightly Premise” means any premises or part thereof, that
  - (i) clearly shows signs of neglect, or which otherwise exhibits a significant lack of general maintenance, clean-up or upkeep and includes, but is not limited to those circumstances listed in Section 9 of this Bylaw; or
  - (ii) is in an unsightly condition as defined in Section 546(0.1) of the *Municipal Government Act*;
- (pp) “Vehicle” has the meaning as defined in the *Traffic Safety Act*;
- (qq) “Violation Ticket” means a violation ticket issued pursuant to the *Provincial Offences Procedures Act*;
- (rr) “Weekday” means Monday through Friday inclusive, unless it falls on a holiday as defined in the Interpretation Act, RSA 2000, c. I-8, as amended or replaced from time to time;
- (ss) “Weekend” means Saturday, Sunday and any other holiday as defined in the Interpretation Act, RSA 2000, c. I-8, as amended or replaced from time to time;
- (tt) “Woodland” means any natural bush, grass or trees which would not normally be maintained or groomed in order to protect its natural state.

### **Interpretation**

3. The owner of a property is responsible for all activities on the property which may constitute a contravention of this Bylaw.

4. Nothing in this Bylaw relieves a person from complying with any requirement of any lawful permit, order, or licence.
5. Any heading or sub-headings in this Bylaw are included for guidance purposes and convenience only and shall not form part of this Bylaw.
6. Where this Bylaw refers to another Act, Bylaw, Regulation or Agency, it includes reference to any Act, Bylaw, Regulation or Agency that may amended or be substituted, therefore.
7. All Schedules attached to this Bylaw shall form a part of this Bylaw.

## **Part 2 - Unsightly Premises and Nuisance**

### **General Prohibitions**

8. No person, including an owner or occupant, shall cause or permit the premises or a use of that premises to constitute a nuisance or unsightly premises.
9. Conditions constituting a nuisance or unsightly premises include, but are not limited to:
  - (a) The excessive, unusual or unreasonable accumulation of rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, animal feces, human excrement, sewage, the whole or part of an animal carcass, dirt, soil, gravel, rocks, petroleum products, hazardous materials, disassembled equipment or machinery, broken household furniture, surplus or disused household or commercial chattels, boxes, cartons, discarded fabrics and the like;
  - (b) Notwithstanding Section 9(a), the accumulation of manure or other animal waste on a premise designated as Agriculture (A), pursuant to the Land Use Bylaw, shall not constitute a nuisance under this Bylaw;
  - (c) Grass or weeds in excess of 20 cm in length, which demonstrate neglect, or a significant lack of general maintenance or upkeep by the owner or occupant, with the exception of natural woodland or brush;
  - (d) The presence of more than two (2) unregistered vehicle or parts thereof within areas designated under the Land Use Bylaw as:
    - (i) a hamlet; or
    - (ii) Castle Mountain Resort;
  - (e) The presence of more than three (3) unregistered vehicles or parts thereof on a parcel of land less than 21 acres, or the presence of more than five (5) unregistered vehicles or parts thereof on a parcel of land that exceeds 21 acres, unless a Development Permit has been issued pursuant to the Land Use Bylaw;
  - (f) The excessive, unusual or unreasonable accumulation of vehicle parts, equipment, tools or machinery that has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances;
  - (g) the excessive, unusual or unreasonable flow of water from a hose, eavestrough, or downspout or similar device on the premises directed towards adjacent premises if it is likely that the water from the hose, eavestrough, downspout or similar device will enter the adjacent premises;
  - (h) the open or exposed storage on the premises of any industrial fluid, including, but not limited to : engine oil, brake fluid or antifreeze;

- (i) the excessive or unreasonable accumulation of yard material including but not limited to: grass, tree or shrub cuttings, animal material, scrap building materials or ashes;
  - (j) the excessive, unusual or unreasonable accumulation of scrap, litter, trash or waste of any kind; or
  - (k) the excessive, unusual or unreasonable accumulation of building materials, whether new or used.
10. Notwithstanding Section 9(k), a property or premise that is found to have an excessive, unusual or unreasonable accumulation of building materials present, whether new or used, will not be deemed to be a nuisance or unsightly if:
- (a) the owner or occupant can establish that a construction or renovation project is being carried out on the premises;
  - (b) the owner or occupant can demonstrate that the construction or renovation project has begun or that the start of the project is imminent;
  - (c) the materials required for the project are stacked and stored in an orderly manner when not kept out of sight within the confines of an enclosed building;
  - (d) the owner or occupant has been granted any development or other permits that are required by the Municipality;
  - (e) the owner or occupant are complying with any conditions included on a permit that has been issued by the Municipality; and
  - (f) the construction or renovation project referred is completed
    - (i) within twelve (12) months from the commencement date of the construction or renovation for projects that do not require development or other permits, unless an extension has been obtained in writing from the Municipality; or
    - (ii) within the timeframe indicated on a development or other permit or approval issued, unless an extension has been obtained in writing from the Municipality.

### **Maintenance Standards**

- 11. All buildings, structures and improvements to property in a residential development shall be maintained consistent with the surrounding area, so that the foundations, exterior walls, roof, windows – including frames, shutters and awnings, doors – including frames and awnings, steps and sidewalks, driveways and fences are kept in a reasonable state of repair.
- 12. All fixtures, improvements, renovations or additions to any building, structure or improvement of property in a residential development, including but not limited to: exterior stairs, porches, decks, patios, landings, gazebos, balconies or other similar structures, must be kept in a reasonable state of repair consistent with the surrounding area.

### **Exclusions and Exemptions – Unsightly Premises, Nuisances and Maintenance Standards**

- 13. Sections 8, 9, 10, 11 and 12 shall not apply to:
  - (a) bona fide and permitted commercial, industrial and agricultural activities, or construction, demolitions, renovations, landscaping, clean-up, storage or other

related activities for which all required municipal, provincial or federal permits have been granted for activities carried out on, or in relation to a premises;

- (b) activities carried out by the Municipality;
  - (c) landfills and transfer stations; or
  - (d) any operation or activity operating under and in accordance with valid development approval conditions.
14. The owner or occupant of premises that carries on or permits the carrying out of any of the activities as set out in Section 13, shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the premises.
15. Notwithstanding Section 13, bona fide and permitted commercial, industrial and agricultural activities operating within the Municipality shall ensure that grass and weeds at these locations are maintained and kept to a reasonable length.

#### **Noise – General**

16. No person shall cause or permit excessive noise that unreasonably annoys or disturbs the peace of any other person.
17. No person shall permit the property that they own, occupy or control to be used in a manner that allows, causes, or permits excessive noise that unreasonably annoys or disturbs the peace of any other person.
18. Factors and conditions that should be considered during an investigation or at trial, in determining whether noise is unreasonably annoying or disturbing the peace of any other person, includes but is not limited to:
- (a) type, volume and duration of the noise;
  - (b) time of day and day of the week;
  - (c) nature and use of the surrounding area; and
  - (d) documentation, including but not limited to: logs and/or statements from a witness, that provides a Peace Officer with reasonable and probable grounds to believe that an offence has been committed, sufficient to support the issuance of a violation ticket.
19. Where a charge has been laid, whether or not any such noise is excessive and unreasonably interferes with a person's peaceful enjoyment of his property is a question of fact to be determined by a Court hearing a prosecution pursuant to this Bylaw.

#### **Noise – Activities in Residential Developments (Night Time)**

20. No person shall operate:
- (a) A lawn mower or other motorized garden tool;
  - (b) A power tool outside of any building or structure;
  - (c) Motorized snow clearing or leaf blowing devices;
  - (d) Any other motorized device, tool or object that may cause noise;

- (e) Construction, excavation, grading or maintenance equipment
- in a residential development during the night time.

### **Noise - Vehicles**

21. A person who owns, occupies, drives, operates or otherwise controls a motor vehicle, heavy vehicle, vehicle or off-highway vehicle, shall not cause excessive or unnecessary noise due to activities including, but not limited to:
  - (a) racing;
  - (b) excessive engine revving;
  - (c) alterations to or modifications of the manufacturer's muffler system;
  - (d) stereo amplification; or
  - (e) any other unnecessary activity,in relation to the motor vehicle, heavy vehicle, vehicle, or off-highway vehicle.
22. If a motor vehicle, heavy vehicle, vehicle or off-highway vehicle is involved in an offence referred to in Section 21, the registered owner of such motor vehicle, heavy vehicle, vehicle or off-highway vehicle is guilty of an offence.

### **Noise – Exemptions**

23. The noise provisions of this Bylaw do not apply to:
  - (a) emergency vehicles;
  - (b) construction in residential developments during the day time;
  - (c) work on a municipal street or highway, carried out by the Municipality or a contractor, or any other work authorized or permitted by the Municipality ;
  - (d) work on a public utility carried out by the owner or operator of the public utility or by its contractors;
  - (e) tractors or other equipment operated in the maintenance of property during the daytime;
  - (f) any activity within the sole jurisdiction of the Government of Canada or Government of Alberta;
  - (g) noise resulting from normal farm practices on lands in a land use district in which agricultural activities are permitted or discretionary use, or for which a development permit has been issued for agriculture, or for which agriculture is a legal non-conforming use within the meaning of Section 643 of the *Municipal Government Act*;
  - (h) noise resulting from an industrial activity by any person on land in a land use district where the industrial activity is a permitted use, or for which a development permit has been issued for the industrial activity, or for which the industrial use is a legal non-conforming use within the meaning of Section 643 of the *Municipal Government Act*;
  - (i) livestock auction markets, community centers such as halls, agricultural grounds, recreation facilities and golf courses;



- (j) landfills or transfer stations;
  - (k) aeronautical related activities of any airports location within or near the Municipality;
  - (l) film industry activities;
  - (m) work or activities deemed to be an emergency; or
  - (n) activities or events exempted under another Bylaw of the Municipality or otherwise permitted by the Municipality
24. The noise provisions of this Bylaw must not be interpreted to prevent:
- (a) the ringing of bells in/on churches, religious establishments or schools;
  - (b) the use of a signaling device on a vehicle, truck or off-highway vehicle, in its normal operations, for the purposes of giving a warning to drivers or pedestrians;
  - (c) the sounding of any alarm or warning to announce a fire or other emergency; or
  - (d) music being played or other sounds related to a lawful parade, public demonstration or other activity authorized by the Municipality.

#### **Garbage & Refuse**

- 25. All premises, whether commercial, industrial, agricultural or residential developments, must store household and miscellaneous garbage in animal and weather-proof containers.
- 26. No person shall leave any garbage or other waste material on any lands owned or controlled by the Municipality, except in a receptacle designed and intended for such use, or at an approved waste management facility.
- 27. No person shall leave any garbage or other waste materials on private property or lands owned by another person, without that landowner's consent.
- 28. If a motor vehicle, vehicle, heavy vehicle or off-highway vehicle is involved in a contravention of Section 26 or 27, the registered owner of the motor vehicle, vehicle, heavy vehicle or off-highway vehicle is guilty of an offence.

#### **Maintenance of Grass on Boulevards**

- 29. Owners and / or occupants of a premises, whether residential, commercial or industrial, shall ensure that grasses on boulevards that are adjacent to the premises are cut and maintained at a reasonable length, not to exceed 20 cm in length, in a manner that prevents the premises from becoming unsightly.

### **Part 3 - Public Behaviours**

- 30. No person shall behave in an aggressive manner towards Municipal staff members or contractors, in a public place or at municipal buildings or properties. For the purpose of this section, a person shall be considered to be behaving in an aggressive manner if they:

- (a) Obstructing or interfering with the lawful movement, duties or access of a municipal staff member or contractor;
  - (b) Harassing, bullying, or verbally abusing a municipal staff member or contractor, including but not limited to threats, taunts, name-calling, derogatory language, or any form of repeated unwanted communication, whether in person or through any other medium;
  - (c) make physical contact with a municipal staff member or contractor; or
  - (d) Intimidating, threatening, coercing, or otherwise disturbing a municipal staff member or contractor through words, actions, or gestures intended to cause fear, discomfort, or distress.
31. When in a public place, no person shall:
- (a) cause or contribute to damage of any public or private property;
  - (b) loiter in a manner obstructs, intimidates, or interferes with the movement, comfort, or safety of others;
  - (c) deposit human waste (including urination or defecation) in any location not designated for such purposes;;
  - (d) spit at, on, or towards any person or in a manner that creates a public nuisance or health concern;or
  - (e) engage in or incite any physical confrontation with others.

#### **Part 4 - Enforcement Operations**

##### **Inspections**

32. Subject to the entry notice provisions of the *Municipal Government Act*, a Peace Officer of the Municipality, who has been appointed as a Designated Officer, bearing proper identification, may enter a premises to conduct an inspection in order to determine whether or not this Bylaw or an Order issued pursuant to this Bylaw is being complied with.
33. In determining whether a premises is a nuisance or an unsightly premises, a Peace Officer may have regard to the use and location of the premises.

##### **Obstruction**

34. No person shall interfere with or obstruct a Peace Officer conducting an investigation or taking any action under the authority of this Bylaw or the *Municipal Government Act*.
35. The Municipality may, in addition to issuing violation ticket(s), make application to the Court of King's Bench to seek an Order pursuant to Section 543 of the *Municipal Government Act*, should a person obstruct a Peace Officer lawfully exercising their authority pursuant to the *Municipal Government Act* or this Bylaw.

##### **Emergencies**

36. In case of an emergency, the Municipality may follow the provisions of Sections 542(3) and 551 of the *Municipal Government Act*, to eliminate the emergency.
37. Pursuant to Section 551(5) of the *Municipal Government Act*, the expenses and costs incurred as a result of actions, measures conducted by and / or remuneration expenses

incurred by the Municipality are an amount owing to the Municipality by the person who caused the emergency.

38. Pursuant to Section 553.1(1)(c) of the *Municipal Government Act*, where a person owes money to the Municipality, as a result of the Municipality taking action or measure pursuant to Section 551(5) of the *Municipal Government Act*, the Municipality may add the amount owing to the tax roll of any property for which the person is the assessed person.
39. Pursuant to Section 553.2(2)(b) of the *Municipal Government Act*, where a person owes money to the Municipality, as a result of the Municipality taking action or measure pursuant to Section 549(5)(b) of the *Municipal Government Act*, the Municipality may add the amount owing to the business tax roll against any business operated by the person.

### **Remedial Orders**

40. Where a Peace Officer believes that a person has contravened any provision of this Bylaw, the Peace Officer may issue a Remedial Order, pursuant to the provisions set out in Section 545 of the *Municipal Government Act*.
41. The owner or occupant of a premises, who is served with a Remedial Order, shall comply with the provisions and conditions set out in the Order.
42. Remedial Orders may be served:
  - (a) personally to the owner of the premises;
  - (b) personally to an occupant, who appears to be 18 years of age or older, of the premises; or
  - (c) when personal service of the Order cannot reasonably be affected or where a Peace Officer believes the owner of the premises is evading service, the Order may be served by posting it in a conspicuous location on the premises and then sending a copy of the Order to the owner of the premises via single registered mail.
43. A Remedial Order is deemed to have been served:
  - (a) immediately, when served personally to an owner or occupant; or
  - (b) three (3) days from the date the Remedial Order is posted on the premises, with a copy sent by single registered mail.

### **Remedial Orders – Review by Council**

44. A person who is served with a Remedial Order, may seek a review of the Remedial Order by submitting a request in writing to the Enforcement Services Appeal Board within fourteen (14) days from the date the Remedial Order is served.
45. The written request for review letter, submitted pursuant to Section 42 must contain:
  - (a) the name of the person to whom the Remedial Order is directed;
  - (b) the municipal address of the premises to which the Remedial Order has been issued against;

- (c) a daytime phone number at which the appellant may be reached; and
- (d) a mailing or email address to which documents in relation to the appeal may be delivered.

#### **Remedial Orders – Appeal to Court of King’s Bench**

- 46. A person affected by the decision of the Enforcement Services Appeal Board may appeal to the Court of King’s Bench, pursuant to the provisions of Section 548 of the *Municipal Government Act*.

#### **Remedial Orders - Enforcement**

- 47. Pursuant to Section 549(1)(a) of the *Municipal Government Act*, if a person fails or refuses to comply with a Remedial Order, the Municipality may take whatever action or measures necessary to remedy a contravention of the *Municipal Government Act*, this Bylaw or any other enactment the Municipality is authorized to enforce or to prevent a reoccurrence of the contravention.
- 48. Pursuant to Section 546.1 of the *Municipal Government Act*, the Municipality may register a caveat under the Land Titles Act against the certificate of title for the land, in relation to a Remedial Order issued pursuant to Section 545 of the *Municipal Government Act*. Any such caveat must be discharged when the Order has been complied with or when the Municipality has performed the action or measures referred to in the Order.
- 49. Pursuant to Section 549(5)(a) of the *Municipal Government Act*, the expenses and costs associated to an action or measure taken by the Municipality to remedy a contravention are an amount owing to the Municipality by the person who contravened the enactment or this Bylaw.
- 50. Council may add any unpaid expenses and costs associated to an action or measure taken by the Municipality to remedy a contravention where the parcel’s owner contravened the enactment or Bylaw and the contravention occurred on all or part of the parcel, pursuant to Section 553(1)(c) of the *Municipal Government Act*.

#### **Order to Remedy**

- 51. Where a Peace Officer believes that a person has contravened a provision of this Bylaw relating to an unsightly or dangerous property, the Peace Officer may issue an Order to Remedy pursuant to the provisions set out in Section 546 of the *Municipal Government Act*.
- 52. The owner or occupant of a premises, who is served with an Order to Remedy, shall comply with the provisions and conditions set out in the Order.
- 53. An Order to Remedy may be served:
  - (a) personally, to the owner of the premises;
  - (b) personally, to an occupant, who appears to be 18 years of age or older, of the premises; or
  - (c) When personal service of the Order cannot reasonably be affected or where a Peace Officer believes the owner of the premises is evading service, the Order may be served by posting it in a conspicuous location on the premises and then sending a copy of the Order to the owner of the premises via single registered mail.
- 54. An Order to Remedy is deemed to have been served:
  - (a) Immediately, when served personally to an owner or occupant; or

- (b) Three (3) days from the date the Order to Remedy is posted on the premises, with a copy sent by single registered mail.

#### **Order to Remedy - Review by Council**

55. A person who is served with an Order to Remedy, may seek a review of the Order to Remedy by submitting a request in writing to the Enforcement Services Appeal Board within seven (7) days from the date the Order to Remedy is served.
56. The written request for review letter, submitted pursuant to Section 55 must contain:
- (a) the name of the person to whom the Order to Remedy is directed;
  - (b) the municipal address of the premises to which the Order to Remedy has been issued against;
  - (c) a daytime phone number at which the appellant may be reached; and
  - (d) a mailing or email address to which documents in relation to the appeal may be delivered.

#### **Order to Remedy - Appeal to Court of King's Bench**

57. A person affected by the decision of the Enforcement Services Appeal Board may appeal to the Court of King's Bench, pursuant to the provisions of Section 548 of the *Municipal Government Act*.

#### **Order to Remedy - Enforcement**

58. Pursuant to Section 549(1)(b) of the *Municipal Government Act*, if a person fails or refuses to comply with an Order to Remedy the Municipality may eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property.
59. Pursuant to Section 546.1 of the *Municipal Government Act*, the Municipality may register a caveat under the Land Titles Act against the certificate of title for the land, in relation to an Order to Remedy issued pursuant to Section 546 of the *Municipal Government Act*. Any such caveat must be discharged when the Order has been complied with or when the Municipality has performed the action or measures referred to in the Order.
60. Pursuant to Section 549(5) of the *Municipal Government Act*, the expenses and costs associated to an action or measure taken by the Municipality to eliminate a danger to public safety or deal with the unsightly condition of property are an amount owing to the Municipality by the person who contravened the enactment or this Bylaw.
61. Pursuant to Section 549(5)(b) of the *Municipal Government Act*, the expenses and costs associated to an action or measure taken by the Municipality to eliminate a danger to public safety or deal with unsightly condition of property are an amount owing to the Municipality by the person who did not comply with the Remedial Order issued pursuant to Section 546 of the *Municipal Government Act*, within the time specified in the Order.
62. Pursuant to Section 553.1(1)(c) of the *Municipal Government Act*, where a person owes money to the Municipality, as a result of the Municipality taking action or measure pursuant to Section 549(5)(b) of the *Municipal Government Act*, the Municipality may add the amount owing to the tax roll of any property for which the person is the assessed person.
63. Pursuant to Section 553.2(2)(b) of the *Municipal Government Act*, where a person owes money to the Municipality, as a result of the Municipality taking action or measure

pursuant to Section 549(5)(b) of the *Municipal Government Act*, the Municipality may add the amount owing to the business tax roll against any business operated by the person.

### **Injunctions**

64. The Municipality may, pursuant to Section 554 of the *Municipal Government Act*, apply to the Court of King's Bench seeking an injunction or other order that is in addition to any other remedy or penalty imposed by the *Municipal Government Act*, any other enactment or a Bylaw.

### **Enforcement Services Appeal Board**

65. The Enforcement Services Appeal Board is hereby constituted under the following terms:
  - (a) The Board shall be a Committee of Council;
  - (b) The Board shall consist of 3 members, comprised of 1 Councilor and 2 members of the general public;
  - (c) The Board may adopt a set of rules and procedures with respect to the conduct of appeals; and
  - (d) In the event that any member of Council appointed as a member of the Board cannot be in attendance at a meeting of the Board, any other member of Council may sit as a substitute for that member of the Board.
66. Pursuant to Section 203 of the *Municipal Government Act*, Council hereby delegates its authority under Section 547 of the *Municipal Government Act*, to the Enforcement Services Appeal Board. This Board may hear appeals of Remedial Orders and Orders to Remedy issued pursuant to Sections 545 and 546 of the *Municipal Government Act*.
67. The owner or occupant of a premises, who is subject to an Order issued by the Enforcement Services Appeal Board, shall comply with the provisions and conditions as set out in the Order.

## **Part 5 - Offences and Penalties**

### **Offences and General Penalty Provisions**

68. Any person who contravenes or fails to comply with the provisions of this Bylaw is guilty of an offence.
69. Any person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00) and in default of payment of any fine imposed, to imprisonment for not more than one (1) year.

### **Owner Liable**

70. The owner of a vehicle involved in an offence under this Bylaw may be deemed to be the person responsible for the offence.

### **Violation Tickets and Penalties**

71. Where a Peace Officer believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a violation ticket in accordance with the *Provincial Offences Procedures Act*.
72. The specified penalty payable in respect of a contravention of any provision of this Bylaw is the amount shown in Schedule 'A' of this Bylaw in respect of that provision.

73. The minimum penalty payable in respect of a contravention of a provision of this Bylaw is the amount shown in Schedule 'A' of this Bylaw in respect of that provision.
74. Notwithstanding Section 72:
- (a) where any person has been in contravention of the same provision of this Bylaw twice within one (1) twelve (12) month period, the specified penalty payable in respect of the second offence is double the amount shown in Schedule 'A' of this Bylaw in respect of that provision; and
  - (b) where any person has been in contravention of the same provision of this Bylaw three (3) or more times within one (1) twelve (12) month period, the specified penalty payable in respect of the third or subsequent offence is triple the amount shown in Schedule 'A' of this Bylaw in respect of that provision.
75. Notwithstanding Section 73:
- (a) where any person has been in contravention of the same provision of this Bylaw twice within one (1) twelve (12) month period, the minimum penalty payable in respect of the second offence is double the amount shown in Schedule 'A' of this Bylaw in respect of that provision; and
  - (b) where any person has been in contravention of the same provision of this Bylaw three (3) or more times within one (1) twelve (12) month period, the minimum penalty payable in respect of the third or subsequent offence is triple the amount shown in Schedule 'A' of this Bylaw in respect of that provision.

#### **Continuing Offences**

76. In the case that an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which the offence continues.

#### **Mandatory Court or Information**

77. No provision of this Bylaw shall prevent any Peace Officer from issuing a violation ticket requiring the court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedures Act, or from laying an information instead of issuing a violation ticket.

### **Part 6 - Miscellaneous Provisions**

#### **Liability for Fees**

78. 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 fees, charges or costs from which he is liable under the provisions of this Bylaw.

#### **Certified Copy of Records**

79. A copy of a record of the Municipality, certified by the person duly appointed as the Designated Officer for the same as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

**Other Provisions**

80. Schedule 'A', as attached, forms a part of this Bylaw.
81. It is the intention of the Council of the Municipality that each section of this Bylaw should be considered as being separate and severable from all other sections. Should any section or part be found invalid by a Court of competent jurisdiction, it is intended that the invalid section or part shall be severable, and the remainder of the Bylaw will remain in effect.
82. It is the intention of the Council of the Municipality that all offences created pursuant to this Bylaw be construed and considered as being Strict Liability Offences.
83. This Bylaw shall come into full force and effect upon the date of the third and final reading.
84. Upon third and final reading of this Bylaw, the existing Noise Bylaw #1256-14 and Unsightly Premise Bylaw #1261-15 are repealed

Read a first time

Read a second time

Read a third time

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Chief Administrative Officer



## SCHEDULE 'A' - PENALTIES FOR OFFENCES

SECTION	OFFENCE DESCRIPTION	MINIMUM PENALTY	SPECIFIED PENALTY
8	Nuisance or Unsightly Premises	400.00	800.00
11	Building / structure / improvement in unreasonable state of repair	200.00	400.00
12	Fixture / improvement / renovation / addition to building in unreasonable state of repair	200.00	400.00
14	Owner / occupant fail to minimize visual impact of untidiness / unsightliness	200.00	400.00
15	Fail to maintain grass / weeds to reasonable length	200.00	400.00
16	Cause / permit excessive noise	300.00	600.00
17	Owner / occupant / person in control of property cause / allow excessive noise	300.00	600.00
20(a)	Operate lawn mower / motorized garden tool in residential development during night time	300.00	600.00
20(b)	Operate power tool outside building / structure in residential development during night time	300.00	600.00
20(c)	Operate motorized snow clearing / leaf blowing device in residential development during night time	300.00	600.00
20(d)	Operate motorized device / tool / object in residential development during night time	300.00	600.00
20(e)	Operate construction / excavation / grading / maintenance equipment in residential development during night time	300.00	600.00
21	Owner / occupant / driver / operator / person in control of motor vehicle / vehicle / heavy vehicle / OHV cause excessive noise	300.00	600.00
25	Fail to store garbage / refuse in animal proof / weather proof container	150.00	300.00
26	Leave garbage / waste material on municipal lands	400.00	800.00
27	Leave garbage / waste material on private property	400.00	800.00
29	Fail to maintain grasses on boulevard adjacent to premises	200.00	400.00
30	Behave in aggressive manner	600.00	1200.00
31(a)	Cause damage in public place	200.00	400.00
31(b)	Loiter in public place	150.00	300.00
31(c)	Urinate / deposit human waste in public place	150.00	300.00
31(d)	Spit at person in public place	200.00	400.00
31(e)	Engage in physical confrontation in public place	200.00	400.00
34	Obstruct Peace Officer	600.00	1200.00
41	Fail to comply with Remedial Order	600.00	1200.00
52	Fail to comply with Order to Remedy	600.00	1200.00
67	Fail to comply with Order of Enforcement Services Appeal Board	600.00	1200.00