

VILLAGE OF ROCKYFORD  
BYLAW # 2019-006  
Nuisance and Unightly Premise Bylaw

BEING A BYLAW OF THE VILLAGE OF ROCKYFORD, A LOCAL GOVERNMENT MUNICIPALITY IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING, CONTROLLING AND ABATING NUISANCES AND REMEDYING DANGEROUS AND UNSIGHTLY PREMISES.

**WHEREAS** the Municipal Government Act, R.S.A. 2000 c.M-26 as amended or repealed and replaced from time to time, provides the Council of the Village of Rockyford the authority to pass Bylaws respecting Nuisances, Dangerous and Unightly Premise;

**AND WHEREAS** the Village of Rockyford deems it expedient and in the public's interest to pass a Bylaw to establish and enforce minimum standards relating to the state or maintenance of property and to regulate, control and abate Nuisance and Unightly Premise within the jurisdiction of the Village of Rockyford.

**NOW THEREFORE** the Council of the Village of Rockyford, pursuant to the authority conferred upon by the laws of the Province of Alberta, enacts as follows:

**Section 1 – Short Title**

1.1 This Bylaw may be cited as the Village of Rockyford “Nuisance and Unightly Premise Bylaw”.

**Section 2 – Definitions**

2.1 In this Bylaw:

- a. “Administrator” means the Chief Administrative Officer of the Village of Rockyford
- b. “Animal Material” means any animal carcass, animal excrement (manure or any other form of waste litter).
- c. “Ashes” means the powder residue accumulated on a premise left after the combustion of any substance and includes any partially burnt wood, charcoal, coal or any combustible substance.
- d. “Building Material” means all construction and demolition material accumulated on a premise while storing, construction, altering, repairing or demolishing any structure and includes, but is not limited to new or used metal, steel, aluminum, tin; or earth, vegetation or rock displaced during such construction, alteration or repair on as defined by the committee.
- e. “Council” means the Municipal Council of the Village of Rockyford.
- f. “Court” means the Provincial Court of Alberta and/or Alberta Court of Queens Bench.
- g. “Dangerous” means any situation that in the opinion of an Enforcement Officer, Administrator, or Village of Rockyford Fire / Disaster / Safety Officer, poses or may pose, a direct threat to the personal health or well being of any person or Property within the Village of Rockyford.
- h. “Derelict Equipment” means mechanical equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition, and included any household appliances stored outside of a residence or other building regardless of whether or not in an operating condition; abandoned property with no intent for use.
- i. “Enforcement Officer” means any person appointed pursuant to the RCMP Police Act, the Alberta Police Act, the Peace Officer Act, or the Alberta Municipal Government Act.
- j. “Foliage” means natural grass, volunteer grass, lawn grass, bushes, shrubs, trees or any plant or vegetation common to grow in the Village of Rockyford.
- k. “Municipal Government Act” means the Municipal Government Act, R.S.A. 2000 c.M-26, as amended or replaced from time to time.
- l. “Nuisance” means any condition or use of Property which in the opinion of the Administrator, or Enforcement Officer constitutes an unreasonable interference with the use of other Property or quality of life of residents of the Village of Rockyford.

- m. "Occupant" means any person renting, leasing and residing at, whether or not for a monetary sum is regularly present or living at a specific location / resident / place in the Village of Rockyford.
- n. "Order" means a written order under the Municipal Government Act, R.S.A. 2000 c.
- o. "Owner" means a person registered under the Land Titles Act, R.S.A. c. L-4 or a person who is recorded as the owner of the Property on the assessment roll of the Village, or a person who has purchased and has yet to become the registered owner of a person controlling the Property under construction or a person who is the lawful occupant of the Property under a lease / license or permit.
- p. "Property" means any lands, buildings, structures, or premises or any personal property located thereupon, within the municipal boundaries of the Village of Rockyford.
- q. "Provincial Offences Procedure Act" means the Provincial Offences Procedure Act, R.S.A. 2000 c. P.-34 as amended or repealed and replaced from time to time.
- r. "Refuse" means all solid and liquid wastes including but not limited to; broken dishes, cans, bottles, glass, rags, cast-off clothing, wastepaper, cardboard, containers, organic and nonorganic yard and garden waste, garbage, fuels, chemicals, hazardous materials, tires.
- s. "Unightly Premises" means any Property, whether land, buildings, improvements to land or buildings, personal property, or any other combination of the above, located on land within the Village of Rockyford, in the opinion of Council, is Unightly, to such extent as to detrimentally affect the repose, amenities, use, value, or enjoyment of the surrounding lands in reasonable proximity to the Unightly Premises, or is otherwise detrimental to the surrounding area or in an Unightly condition as defined by the Municipal Government Act.
- s.1 material on property may include but not limited to, derelict equipment, building materials, foliage, ashes, dangerous conditions or refuse.
- s.2 notwithstanding, each Property or location will be deemed to be Unightly by the Council based on each individual situation and therefore no set pre-existing conditions must be met for a Property to be designated as Unightly or Nuisance by the committee.
- t. "Violation Tag" means a Bylaw Violation Tag issued pursuant to the Municipal Government Act, R.S.A. 2000 c.M-26.
- u. "Violation Ticket" means a ticket issued under Part 2 of the Provincial Offences Procedure Act, R.S.A. 2000 c. P.-34 and any regulations thereunder.

### **Section 3 – Prohibitions**

- 3.1 An Owner or Occupant of Property shall not cause or allow that Property to constitute a nuisance.
- 3.2 An Owner or Occupant or Property shall not cause or allow that Property to be Dangerous to public safety.
- 3.3 An Owner or Occupant of Property shall not cause or allow that Property or the use of that Property to be an Unightly Premise.
- 3.4 An Owner or Occupant of Property shall not cause or allow that Property or the use of such Property to remain in a Nuisance, Dangerous or Unightly condition. If there is more than one Owner of the Property, all owners or Occupants of that Property are jointly and severally responsible to ensure that the Property complies with the Bylaw.
- 3.5 An Owner or Occupant of the property shall not have more than two (2) unregistered vehicles per property title or residence to avoid being deemed as a Nuisance, Dangerous, or Unightly property.
- 3.5.1 The Village or Rockyford reserves the right to exercise discretion in relation to the number or unregistered vehicles, with regards to space availability, and number of residences per property titles based on individual circumstances in reference to section 3.5.
- 3.6 The owner or occupant of a Premises adjacent to a sidewalk that runs in front or adjacent to a sidewalk that runs in front or back or along side of the Premise where:
- 3.6.1 such sidewalk runs parallel to and directly adjacent to a Highway; or
- 3.6.2 such sidewalk runs directly parallel to and adjacent to a street, where the sidewalk and

street are separated only by a grassed or otherwise surfaced boulevard

shall remove all snow, ice, dirt and other obstructions from sidewalks within seventy-two (72) hours.

3.7 The village is hereby authorized to provide for the clearing of sidewalks adjacent to the Premise where snow, ice, or debris has not been cleared within seventy-two hours (72) and the expense of such removal shall be charged to the owner.

3.8 No person may obstruct, hinder, interfere or impede an Enforcement Officer in the performance of their lawful duty or in their exercise of the Enforcement Officer's powers or any person acting under the direction of an Enforcement Officer in relation to this Bylaw.

#### **Section 4 – Enforcement**

4.1 An Enforcement Officer or their designate may, for the purpose of ensuring that the provisions of the Bylaw are being complied with enter in upon any Property, in accordance with Section 542 of the Municipal Government Act, to carry out an inspection, enforcement action or other action required or authorized by this Bylaw, the Municipal Government Act or any other Provincial or Municipal Statute.

4.2 Any Owner or Occupant who contravenes this Bylaw will be issued an Order by an Enforcement Officer and a further Order to Remedy may be approved by Council to resolve the contravention in any manner deemed necessary in the circumstances in the case of Nuisance, pursuant to Section 545 of the Municipal Government Act or in case of a danger to public safety or Unsanitary Premise, pursuant to Section 546 of the Municipal Government Act.

4.3 Any Owner or Occupant who is named within an Order to remedy Property condition, will in the case of Nuisance Property within no more than fifteen (15) business days remedy Order Conditions or in the case of Dangerous Property, within no more than seven (7) business days, remedy Order conditions or in the case of Unsanitary Property, within no more than thirty (30) business days, remedy Order conditions or as directed by an Enforcement Officer.

4.4 Where an enforcement Officer has reasonable and probable ground to believe that a person has violated any provision of this Bylaw, the Enforcement Officer may commence Court proceedings against such person by:

4.4.1 Issuing a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act; or

4.4.2 Swearing out an Information and Complaint against the person pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act; or

4.4.3 Issue a Violation Tag pursuant to the Municipal Government Act

4.5 Where an Enforcement Officer issues a person a Violation Ticket in accordance with Section 3 of this Bylaw, the Enforcement Officer may either:

4.5.1 Allow the person to pay the specified penalty for the offence as listed in the Section 7 Penalty Section by including the penalty amount within the Violation Ticket;

4.5.2 Compel the person to attend Court by way of a part 2 Violation Ticket if the Enforcement Officer believes that it is in the public interest pursuant to Part 2 of the Provincial Offences Procedure Act.

4.6 No Provision of this Bylaw nor any action taken pursuant to any provisions of this Bylaw shall restrict, limit, prevent or preclude the Village of Rockyford from pursuing any and all other remedy in relation to a Premise provided by the Municipal Government Act, or any other law of the Province of Alberta.

#### **Section 5 – Severability**

5.1 Each provision of the Bylaw is independent of all other provisions. If any such provision is declared invalid by Court of jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

#### **Section 6 – Strict Liability Offence**

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

### **Section 7 – General Penalty Section**

- 7.1 The minimum and specified penalty for a violation for any provision, with the exception of Section 3.6 of this Bylaw, is a fine in the amount of \$500.00.
- 7.2 The minimum and specified penalty for a violation of Section 3.6 is a fine;
- 7.2.1 First Offence \$250.00
- 7.2.2 Second and subsequent offences \$500.00
- 7.3 Notwithstanding Section 7.1 of this Bylaw, if a person violated the same provision of this Bylaw a second time within a 12-month period, the minimum specified penalty for the second such violation shall be a fine in the amount of \$1000.00.
- 7.4 Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000.00.

### **Section 8 – Order**

- 8.1 If in the opinion of Council, a Property is in violation of this Bylaw and detrimental to the surrounding area because of its dangerous or unsightly state, Council will issue an Order to remedy the violations pursuant to Section 546 of the Municipal Government Act.
- 8.2 Upon an Order being issued, a Village of Rockyford designate will serve the Order directly on the person(s) named in the Order, either in person or via mail to the last known address of the Owner or Resident.

### **Section 9 – Appeal of Order to Council**

- 9.1 Any person named in an Order to remedy a Nuisance Property may within 14 days apply for Council to review the Order as per Section 547(1) (a) of the Municipal Government Act.
- 9.2 Any person named in an Order to remedy an Unsightly Property may within 7 days apply for Council to review the Order as per Section 547(1) (b) of the Municipal Government Act.
- 9.3 After reviewing the Order, Council may confirm, vary, substitute or cancel the order.

### **Section 10 – Appeal of Decision to Alberta Court of Queens Bench**

- 10.1 Any person affected by a decision of a Council under Section 547 of the Municipal Government Act, may appeal to the Court of Queens Bench if
- 10.1.1 The procedure required to be followed by this act is not followed, or
- 10.1.2 The decision is patently unreasonable.
- 10.2 The appeal must be made,
- 10.2.1 In the case of Section 8.1 of the Bylaw within 30 days of the decision.
- 10.2.2 In the case of Section 8.2 of the Bylaw within 15 days of the decision.

### **Section 11 – Registering a Complaint for Violations of this Bylaw**

- 11.1 All complaints concerning violations of this Bylaw shall be in writing and specify the exact Property location, details of concern, and remedial expectations in relation to the complaint.
- 11.2 Citizen complaints will be received anonymously in respect to Dangerous Property and directly investigated by the Village of Rockyford Enforcement Officers or their designate.
- 11.3 No citizen complaints regarding a Nuisance or Unsightly Property will be accepted on an anonymous basis. Complaints must be specific in nature and specify specific problems in the opinion of the complainant.
- 11.4 All written complaints received will be reviewed by an enforcement Officer who will determine if a possible violation of this Bylaw has occurred.

### **Section 12 – Recovery of Cost**

- 12.1 Any expenses or costs of any Order or action or measures taken by the Village under this Bylaw are an amount owing to the Village by the Property Owner in Contravention of this Bylaw.

- 12.2 Upon an order being issued by Council the Village will make the decision to utilize County or contractor resources to remedy Order conditions or instructions as required.
- 12.3 The expenses and costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt, or if unpaid after ninety (90) days from the date the amount is rendered, may be added to the tax roll of the Property which is the subject of any enforcement proceedings under the Bylaw.
- 12.4 If the Village sells all or part of the structure or anything that has been removed pursuant to the Order under this Bylaw, the proceeds of the sale must be used to pay the expenses and costs of the removal of such, and excess proceeds must be paid to the Owner entitled to them.

Section 14 – Repeal

- 14.1 Bylaw 2017-001 is hereby rescinded upon the passing and signing of By-law 2019-006.

Section 15 – Effective Date

- 14.1 This Bylaw shall come into force and effect upon receiving third reading.

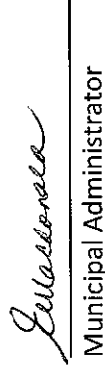
Read a first time this 13<sup>th</sup> day of November, 2019

Read a second time 13<sup>th</sup> day of November, 2019

Received unanimous consent to proceed to third and final reading this 13<sup>th</sup> day of November, 2019

Read a third time and passed 13<sup>th</sup> day of November, 2019

  
Mayor

  
Municipal Administrator

