



VILLAGE OF LOUGHEED

BYLAW No. 749-15

BEING A BYLAW TO REGULATE AND ABATE NUISANCE AND UNSIGHTLY PREMISES AND TO REQUIRE TIMELY SIDEWALK SNOW REMOVAL WITHIN THE VILLAGE OF LOUGHEED, IN THE PROVINCE OF ALBERTA (hereinafter referred to as 'the Municipality' or 'Corporation')

WHEREAS: Section 7 of the *Municipal Government Act*, R.S.A. 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 and related nuisances within the Village of Lougheed; and

WHEREAS: the Council deems it necessary to require the timely removal of ice and snow from sidewalks located within the Village of Lougheed; and

AND WHEREAS: the Council deems it necessary to hereby repeal and replace any and all existing Bylaws pursuant to the regulation of Unsightly Premises and/or Sidewalk Snow Removal,

NOW THEREFORE the Council of the Village of Lougheed in the Province of Alberta, duly assembled, enacts as follows:

1. **BYLAW TITLE**

That the Bylaw shall be known as the "**Property Responsibility Bylaw**".

2. **DEFINITIONS**

In this Bylaw, unless the context otherwise requires:

- a) "Administration Fee" means a fee added to actual expenses Incurred by the Village for measures taken pursuant to Section 10 of this Bylaw and such fee is equal to the greater of \$25.00 or 15 percent of actual expenses incurred by the Village;
- b) "Animal Material" means any animal excrement, offal, carcasses or parts thereof, and includes all material accumulated on a premises from the operation of pet pens, pet yards, kennels, stables, veterinary clinics or animal hospitals;
- c) "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;

- d) "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 siding, metal, packaging material, containers, gravel, concrete, asphalt, and any earth, vegetation or rock displaced during such construction, renovation or demolition;
- e) "Chief Administrative Officer" means a Municipal official employed by the Village of Lougheed in the position Chief Administrative Officer;
- f) "Complaint" refers to the initial reported contravention of this Bylaw, whether such complaint is made by a member of the public, an employee of the Village, or self-generated by an enforcement officer in order to prevent continued or further contravention of the provisions of this Bylaw;
- g) "Control" in reference to weeds and grass means to:
 - i. Cut, mow or carry out other measures designed to inhibit propagation of the weed, or the excessive growth of grass; or
 - ii. Destroy the weed if specified by a Community Peace Officer, Bylaw Enforcement Officer or Weed Inspector employed by the Village of Lougheed; or
 - iii. Carry out other measures as prescribed by a Bylaw Enforcement Officer contracted by the Village of Lougheed;
- h) "Council" means the Council of the Village of Lougheed;
- i) "Court" means the Provincial Court of Alberta;
- j) "Enforcement Officer" means a Bylaw Enforcement Officer or RCMP Constable or other person appointed by the Village and who is authorized to enforce Bylaws of the Village of Lougheed;
- k) "Garbage" means any household or commercial rubbish 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;
- l) "Graffiti" means words, figures, letters or drawings scribbled, scratched, painted or sprayed upon any surface without the consent of the owner of the building or other surface upon which such graffiti has been placed;
- m) "Including or Includes" when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- (n) "Municipal Government Act" means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended or replaced from time to time;
- (o) "Owner" of a property or Premises means:
 - (i) a Person who is shown as the owner of the property on the subject Land Title;

- (ii) a Person who is recorded as the owner of the property on the tax assessment roll of the Village;
- (iii) a Person who is an occupant of the property or Premises pursuant to a rental or lease agreement, license or permit, or who otherwise occupies the property or Premises with the permission or consent of the legal owner;
- (iv) 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 who has not yet become the registered owner thereof;
- (v) a Person holding himself out as a person having the powers and authority of ownership or control of the property or Premises, or any Person, who for the time being, exercises the powers and authority of ownership or control of the property or Premises;
- (vi) a Person controlling or managing the property or Premises under construction;
- (p) "Notice" means a Notice issued pursuant to Section 10 of this Bylaw, or an Order issued pursuant to the provisions of the Municipal Government Act of Alberta, to remedy any condition of a property or Premises that is not in compliance with any provision of this Bylaw;
- (q) "Person" means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- (r) "Premises" means the lands, buildings, and other structures of any property situated in whole or in part within the Village, and includes any land or buildings owned or leased by the Village;
- (s) "Provincial Offences Procedure Act" means the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, and the regulations thereof, as amended or replaced from time to time;
- t) "Residential Building" means a permanent or semi-permanent structure that is used as a residence, including a house, multi-family dwelling, condominium complex, apartment building, hospital, lodging house, hotel, motel, or mobile/manufactured home, and includes a trailer, motor home, camper or tent that is lawfully situated on private property or within an approved and designated campground;
- u) "Residential Development" means any land that is the site of one or more Residential Buildings, excepting farms, ranches, and other land which is primarily used for bona fide industrial, agricultural, or commercial purposes;
- v) "Village" means the municipal corporation of the Village of Loughheed in the Province of Alberta, or the area located within the Village of Loughheed's corporate limits, as the context requires;
- w) "Unightly Premises" means any Premises or part thereof that clearly shows signs of neglect, or which otherwise exhibits a significant lack of general maintenance, clean-up, or upkeep, and includes:
 - i) Any land upon which there is an excessive, unusual, or unreasonable accumulation of:

- (a) animal material, yard material, building material, garbage, human excrement, sewage, hazardous materials, piles of soil, clay or rubble, petroleum products, metal, plastics, fabrics, used containers, paper products, or any other form of scrap, litter, trash, junk, or waste of any kind;
 - (b) parts of disassembled vehicles (including tires/wheels), appliances, machinery, equipment, or power tools;
 - (c) surplus, disused, damaged or stored household or commercial chattels; or
 - (d) surplus, disused, damaged or stored vehicles, trailers, motorcycles, bicycles and recreational vehicles, including any such items that are inoperative by reason of disrepair, removed or missing parts, age, damage, or which are otherwise not in a legally roadworthy or functioning condition; and
- ii) Any building, structure, or other improvement that exhibits significant physical deterioration, including buildings and structures that suffer from:
- (a) broken (or missing) windows, siding, shingles, shutters, eaves, roofing or finishing materials; or
 - (b) clearly visible exterior or structural deterioration, damage or decay, including significant fading, chipping or peeling of painted surfaces;
- x) "Vehicle" has the same meaning as defined in the Traffic Safety Act, and includes any motorized vehicle that is unable to be moved under its own power;
- y) "Yard Material" means waste material of an organic nature formed as a result of gardening, landscaping, horticultural pursuits, or agricultural activities and includes grass, tree or shrub cuttings, waste sod and decomposing plants, leaves and weeds.

3. **GENERAL PROHIBITION**

- a) No Owner or Owners of a Premises shall cause, permit or allow the Premises to become or to continue to be an Unsightly Premises as defined in this Bylaw.
- b) No Owner or Owners of a Premises shall cause, permit or allow the Premises to become or continue to be a risk of danger to public safety, themselves, or to other persons, Premises or property.
- c) No Owner or Owners of a Premises shall cause, permit or allow the actions of any person occupying or using the Premises to become or continue to be a nuisance or a risk of danger to the public, or to otherwise interfere with other persons' repose, comfort or peaceful enjoyment of their property.
- d) When making the determination as to whether a particular Premises is an Unsightly Premises, or as to whether the Owner of a Premises has allowed the Premises or its occupiers to become or continue to be a nuisance or risk of danger to other persons or property, the Court may consider any admissible evidence as to:
 - i) the general condition and state of upkeep and tidiness of other Premises located in the same neighbourhood, community or vicinity;

- ii) the nature, size, location and permitted use of the Premises, and whether or not the Premises is located within a Residential Development;
- iii) the nature of the unsightly or nuisance condition complained of, and the period of time that such condition has persisted;
- iv) whether the Premises is undergoing construction, renovation, or demolition, and the period of time that such activity has been ongoing;
- v) whether the Owner of the Premises had been previously notified or warned by an Enforcement Officer that the Premises is not being kept in compliance with the provisions of this Bylaw; and
- vi) any other circumstances or factors relating to the Premises which the Court considers are relevant to the subject determination.

4. **WEEDS, GRASS AND TREES**

- a) An Owner of a Premises shall control all weeds and grass on the Premises, and on any boulevard which abuts or adjoins the Premises, including up to the center of lanes or alleys at the rear or side of the Premises.
- b) An Owner of a Premises shall remove any trees, shrubs or parts thereof that:
 - i) overhang or encroach upon public property, and which, due to a deterioration of condition or for any other reason become or create a traffic or public safety hazard; or
 - ii) which become unsightly or which create a risk of causing damage to public or private property.

5. **SNOW ON SIDEWALKS**

- a) An Owner of a Premises shall ensure:
 - i) the removal from any public sidewalk located adjacent to the Premises, including private driveway crossings, all snow and ice deposited thereon, whether from natural or unnatural means, within 24 hours of such deposit; and
 - ii) that the snow and ice removed pursuant to Section 5 a) is not placed upon any highway or other public property administered by the Village.
- b) For the purpose of Section 5 a):
 - i) snow and ice will be considered removed when the sidewalk is cleaned for the entire width of the sidewalk to the sidewalk surface as completely as reasonably possible;
 - ii) in the case of a sidewalk being below grade resulting in repeated coverage by ice or water through drainage of melted snow or rain, the sidewalk must be cleaned as completely as reasonably possible and a non-slip, non-corrosive and environmentally-friendly material such as sand or similar material must be scattered on the surface of the sidewalk as frequently as required to maximize traction for pedestrians; and

- iii) where an Owner of a Premises reasonably anticipates being absent, the Owner is required to make arrangements to ensure the sidewalks are maintained in accordance with this Bylaw during such absence.

6. **CONSTRUCTION SITES**

- a) An Owner of a Premises or property under construction, renovation or demolition shall ensure that building materials and waste building materials on the premises are contained and secured in such a manner that prevents such material from being blown off or scattered throughout or from the property.
- b) An Owner of a Premises or property under construction or renovation shall ensure that waste building materials and other refuse are removed from the property, or collected and securely contained in appropriate waste bins or containers, on a daily basis.

7. **GENERAL PROPERTY MAINTENANCE STANDARDS — OWNERS' DUTIES**

- a) The Owner or Owners of a premises shall take all reasonable steps to ensure that:
 - i) any Graffiti placed on the exterior surfaces of any structures, chattels, or other property on the premises is removed, painted over, or otherwise eliminated from public view within 30 days of the owner of the premises being notified by an Enforcement Officer of the presence of the subject Graffiti and the requirement under this Bylaw that it be removed;
 - ii) sitting or stagnant water located on the premises is monitored and controlled so as to prevent the harboring and propagation of mosquitoes, flies and similar pests;
 - iii) large accumulations of dead grass, brush or other vegetation is removed from the premises, or is otherwise controlled so as to prevent the harboring and propagation of vermin and similar pests; and that
 - iv) the height of grass on the premises is reasonably controlled so as to prevent the grass from becoming unreasonably long and unsightly, having regard to the typical height of the grass on adjacent or neighbouring premises.
- b) No Owner or Owners of a premises, whether presently occupied or not, shall permit or allow:
 - i) weeds to grow and propagate uncontrolled or excessively on the premises;
 - ii) trees or other vegetation growing on the premises to interfere or endanger the lines, poles, conduits, pipes, sewers, or other public works of the Village;
 - iii) any water from the premises to be re-directed or intentionally released onto public roadways, pathways, or other Village lands, without prior permission first being obtained from the Village;
 - iv) any dense, dark, opaque, or ash-laden smoke, or dense dust to be emitted from the premises; or

- v) garbage, litter, building material, yard material or any other household material to be blown off or otherwise scattered beyond the property boundaries of the subject premises.
- c) Where branches, foliage, roots, or other parts of trees, shrubs or other vegetation growing on a premises extend beyond the property lines of the premises, and are interfering or obstructing any line, lighting, roads, sewers or other public works of the Village, an Enforcement Officer may authorize, with or without notice to the owner of the subject premises, the immediate removal of any such interference or obstruction.
- d) Where remedial measures are carried out pursuant to Section 7 c) of this Bylaw, neither the Village nor any employees or contractors thereof may be held financially liable in any way in relation to any such remedial actions taken.

8. **ILLEGAL DUMPING**

- a) No person shall personally, nor by his employee, servant or agent discard, place, deposit or leave any garbage, refuse, debris or any other material upon any public property, other than in officially designated areas, within the Village.
- b) No person shall personally, nor by his employee, servant or agent discard, place, deposit or leave any garbage, refuse, debris or any other material upon any private property, without the permission of the owner of such property.
- c) Any person who has contravened Section 8 a) or Section 8 b) of this Bylaw shall, within twenty-four hours after being so directed by an Enforcement Officer, remove the subject garbage, refuse, debris or other material from the property and place it in the nearest officially designated area.
- d) Where garbage, refuse, debris or any other material has been discarded or left on private property without permission, the owner of the private property is responsible for removal of such discarded material, and the owner of the private property is responsible for ensuring that the subject property is maintained in compliance with the provisions of this Bylaw.

9. **EXEMPTIONS & EXCEPTIONS**

- a) The provisions of this Bylaw shall not be interpreted to prevent bona fide and lawfully permitted commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other legally approved activities from being carried out on, or in relation to a Premises.
- b) The Owner or Owners of a Premises that legally carries on, or permits the carrying on of any of the activities referred to in Section 9 a) of this Bylaw shall ensure that all reasonable steps are taken to minimise the duration and visual impact of any resulting untidiness or unsightly condition of the Premises.
- c) When making the determination, as required by Section 9 b), as to whether the Owner of a Premises has taken "all reasonable steps to minimise the duration and visual impact" of the unsightly condition resulting from the particular legally permitted activity, the Court's considerations may include any admissible evidence as to any of the factors noted in Section 3 d) of this Bylaw.

10. BYLAW COMPLIANCE NOTICES AND ORDERS

- a) Where the Owner of a Premises is found to be in non-compliance with any provision of this Bylaw, an Enforcement Officer may issue and serve upon the Owner of the Premises a bylaw compliance Notice containing the following:
 - i) The address and/or physical location where remedial action is required;
 - ii) The condition or conditions that are not in compliance with this Bylaw;
 - iii) The remedial action that is required;
 - iv) The deadline for completion of the remedial action required. The deadline for completion of the remedial action (except for snow & ice removal) must not be less than 14 days from the date of service of the Notice and must not be greater than 30 days from the date of service of the Notice.
- b) An application for an extension of the deadline prescribed by a Notice or Order for the completion of the remedial action required (except for snow & ice removal) must be applied for in writing to the Enforcement Officer within 7 days of receipt of the Notice or Order. This application must include the reasons why the deadline extension is required. Any deadline extension allowed may not extend more than 30 days past the deadline date on the Notice or Order, and any such extension is issued at the sole discretion of the Enforcement Officer.
- c) Where a Notice or Order regarding the removal of snow or ice from sidewalks is issued and served pursuant to this Section, and the specified remedial action is not taken within twenty-four hours, the Village may take all reasonable measures to remedy in a timely manner any or all conditions specified in the Notice or Order.
- d) Where a Notice or Order regarding the removal of weeds or the cutting of grass is issued and served pursuant to this Section, and the specified remedial action is not taken within forty-eight hours, the Village may take all reasonable measures to remedy in a timely manner any or all conditions specified in the Notice or Order.
- e) Any Notice or Order issued pursuant to this Section will be deemed to have been sufficiently served upon the Owner of the Premises:
 - i) When served personally upon the Owner, or served substitutionally upon any person who is 18 years of age or older who resides in the subject Premises, if the Premises is occupied by the Owner;
 - ii) When served personally upon an occupant of the Premises who is 18 years of age or older, or the manager or person apparently in charge of the Premises, if the Premises is not occupied by the Owner;
 - iii) When posted at a conspicuous location on the Premises; or
 - iv) When mailed by regular mail to the Owner of the Premises using the address provided by the Owner and on record with the Village of Loughheed as the mailing address for the Owner of the Premises.
- f) Where a Notice has been previously issued to an Owner pursuant to this Section in relation to Sections 4 and 5 (weeds and grass or snow and ice on sidewalks) of this Bylaw and another similar non-compliant condition occurs within the same winter or summer season, no further

Notice or Order is required before action pursuant to this Section may be taken by the Village to remedy the condition.

- g) Where measures are taken by the Village pursuant to this Section following a failure to comply with a Notice issued in relation to Section 5 of this Bylaw (snow and ice on sidewalks), all Village expenses and costs incurred, including an administration fee, may be added to the tax roll of the subject Premises and recovered by the Village as municipal taxes (Municipal Government Act, Section 553(1)(g.1)). Prior to adding such Village expenditures to a property's tax roll, the legal owner of the property, as recorded on the subject land title, shall be notified and provided the option of paying the expenditure forthwith.
- h) Where measures are taken by the Village pursuant to this Section following a failure to comply with a Notice issued in relation to Section 4 of this Bylaw (weeds and grass), all Village expenses and costs incurred, including an administration fee, are a debt owing to the Village by the Owner of the subject Premises.
- i) The Owner of a Premises who has been issued a remedial Notice pursuant to Section 10 a) of this Bylaw shall fully comply with the Notice within the initial or subsequently extended time allowed for the subject remedial measures to be completed.

11. APPEALS OF BYLAW COMPLIANCE NOTICES

- a) Any remedial Notice issued pursuant to Section 10 of this Bylaw, excepting Notices issued in relation to Section 4 and 5 (weeds and grass or snow and ice on sidewalks), may be appealed to the Chief Administrative Officer by delivering a written appeal to the Village Office within 7 days of the Owner's receipt of the subject Notice.
- b) Upon receipt of a written appeal submitted pursuant to Section 11 a), the Chief Administrative Officer will review the subject remedial notice, the enforcement file, the Bylaw, the written appeal and any materials provided therewith. The Chief Administrative Officer may decide to uphold, vary, or revoke the subject remedial Notice, and will communicate such decision to the appellant in writing within 10 days of the receipt of the appeal, including, where applicable, the date by which the upheld or varied remedial Notice must be complied with.
- c) Where remedial measures are taken pursuant to Sections 10 c) or 10 d) of this Bylaw (weeds and grass or snow and ice on sidewalks) and cost recovery action is commenced by the Village, an appeal only as to the amount of the debt owing to the Village may be made to the Chief Administrative Officer by delivering a written appeal to the Village Office within 7 days of the Owner being notified of such cost recovery action.
- d) Upon receipt of a written appeal submitted pursuant to Section 11 c), the Chief Administrative Officer will review the subject remedial notice, the enforcement file, the bylaw, the costs of the remedial action taken by the Village, the written appeal, and any other circumstances that are considered relevant to the subject appeal. The Chief Administrative Officer may decide to uphold, vary, or cancel the subject debt owing to the Village, and will communicate such decision to the appellant in writing within 10 days of the receipt of the appeal.

12. **ENFORCEMENT**

- a) Where an Enforcement Officer has reasonable grounds to believe that a Person has contravened any provision of this Bylaw, the Enforcement Officer may commence proceedings against such Person by:
 - i) Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act
 - ii) Swearing out an Information and Complaint against the Person; or
 - iii) In lieu of prosecution, issuing the Person a Bylaw Violation Tag in a form as approved by the Chief Administrative Officer.
- b) Where an Enforcement Officer issues a Person a Violation Ticket in accordance with Section 12 a)i) of this Bylaw, the Officer may either
 - i) Allow the Person to pay the specified penalty as provided for in Appendix "A", which is hereunto attached and forms part of this Bylaw, by indicating such specified penalty on the Violation Ticket; or
 - ii) 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.
 - iii) Where a Bylaw Violation Tag is issued to a Person and is not paid within 14 days of the date of issue, the Enforcement Officer may proceed by way of prosecution in accordance with Sections 12 a)i) or 12 a)ii) of this Bylaw.
 - iv) No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude an Enforcement Officer or the Village from pursuing any other action or remedy in relation to a Person, Premises, or nuisance provided by the Municipal Government Act, any other law of the Province of Alberta, or any other Bylaw of the Village.

13. **GENERAL PENALTY PROVISION**

- a) 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.

14. **MINIMUM AND SPECIFIED PENALTIES**

- a) The specified and minimum penalties, and penalties in lieu of prosecution payable for a violation of any of the provisions of this Bylaw are as is set out in Appendix "A", which is hereunto attached to and forms part of this Bylaw, and which may be amended from time to time by a resolution of Village Council

15. **SEVERABILITY**

- a) It is the intention of Village Council that each provision of this Bylaw should be considered as being separate and severable from all other provisions. Should any section or provision of this Bylaw be found to have been improperly enacted, or otherwise of no force or effect, then such section or provision shall be regarded as being severable from the remainder of this Bylaw, and that the Bylaw remaining after such severance shall remain of full force and effect.

16. **STRICT LIABILITY OFFENCE**

- a) It is the intention of Village Council that all offences created by this Bylaw be interpreted to be strict liability offences.

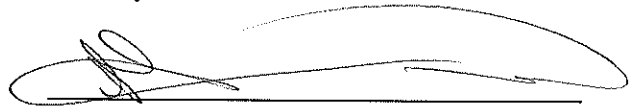
17. **EFFECTIVE DATE**

This Bylaw is effective upon third and final reading by Council.

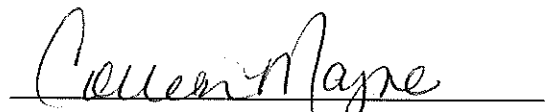
READ a first time this 16 day of July, 2015.

READ a first time this 16 day of July, 2015.

Read a third time and finally passed this 20 day of August, 2015



Susan Armer, Mayor



Colleen Mayne, CAO