

# Nuisances, Untidy and Unsightly Property By - Law

BYLAW # 728 - 2013

OF THE TOWN OF FOX CREEK IN THE PROVINCE OF ALBERTA

BEING A BYLAW OF THE TOWN OF FOX CREEK IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT, AND REGULATION OF NUISANCES, UNTIDY AND UNSIGHTLY PROPERTY WITHIN THE TOWN OF FOX CREEK.

WHEREAS pursuant to the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta, 1994 and amendments there of the Council of the Town of Fox Creek, may establish a Bylaw with respect to nuisances and unsightly properties.

NOW THEREFORE, the council of the Town of Fox Creek in the Province of Alberta, DULY ASSEMBLED ENACTS AS FOLLOWS:

## SHORT TITLE

1. This Bylaw may be cited as the "Nuisance Bylaw"

## DEFINITIONS

2. In this Bylaw:

a) **"COUNCIL"** means the Council of the Town of Fox Creek, elected pursuant to the Local Authorities Election Act, Revised Statutes of Alberta;

b) **"DEBRIS"** means waste material such as building or construction material, or refuse arising from building construction or development;

c) **"GARBAGE"** means all kitchen and table leavings, condemned meats, fish, fruits, vegetables, and other such waste of decomposing matter;

d) **"HIGHWAY"** means thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, land, alley, square bridge, causeway, trestle way, or place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes:

i) sidewalks (including the boulevard portion of the sidewalk);

ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and;

iii) if a highway right of way is contained between fences or between a fence on one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway as the case may be;

e) **"NOXIOUS WEEDS"** means any restricted, noxious, or nuisance weed listed in the Alberta "Weed Control Act and Weed Designation Regulation";

f) **"NUISANCE"** means anything that is annoying, unpleasant, or obnoxious;

g) **"OCCUPANT"** means the owner, agent, lessee, manager or tenant of any property or premises within the Town, whether actually occupying or legally responsible for any property or premises;

h) **"OWNER"** means any person who is registered under the Land Titles Act as the owner of the land;

i) **"PEACE OFFICER"** means a member of the Royal Canadian Mounted Police, Bylaw Enforcement Officer or a Community Peace officer

j) **"PREMISES"** means the exterior walls and their components of any building or structure and shall include the land, accessory buildings, fences or erections thereon;

k) **"RUBBISH"** means tin cans, broken dishes, glasses, rags, waste paper, food containers, grass cuttings, shrubbery, manure, weeds, garden refuse, and any other such waste of a non-decomposing matter not included in any other definition in this bylaw;

l) **"TOWN"** means the Municipality of the Town of Fox Creek, incorporated in the Province of Alberta;

m) **"UNSIGHTLY"** means the premises have not been maintained in order to prevent their deterioration due to weather, rot or insects and not free from loose and broken materials;

n) **"UNTIDY"** means the land that is not protected by suitable ground cover which prevents erosion of the soil or devaluation of neighboring property and shall include grass, plants, and vegetation that is not trimmed;

o) **"VEHICLE "** as described in the Alberta Traffic Safety Act

p) **"CONSTRUCTION WASTE CONTAINERS"** as described in the garbage bylaw

### **ENFORCEMENT PROVISIONS**

3. No person being the occupant of any land within the Town shall permit the land of which such person is the occupant to be in or remain a nuisance.

4. No person being the occupant of any premises within the Town shall permit the premises of which such person is the occupant to be in or remain unsightly.

5. No person being the occupant of any land within the Town shall permit the premises of which such person is the occupant to be in or remain untidy.

6. The occupant of any land within the Town shall cut the grass, control dandelions and other noxious weeds or plants, and remove rubbish, garbage, and debris as it accumulates on his/her property and that portion of the highway that lies between the boundary of his/her land and the center line of the highway that abuts or flanks the property of which such person is the occupant.

7. The occupant may be required to construct a fence, wall, or screen, or similar structure of a maximum height of six feet to prevent the untidy land or unsightly premises from being viewed from any highway or other public place.

8. All owners/occupants/leasee shall maintain primary building, an accessory building, structure or fence such that it does not become dilapidated, deteriorating, becomes unsightly or becomes a safety hazard

9. No occupant shall permit the accumulation of dirt, stones, old implements, old motor vehicles, scrap iron, or any other rubbish, garbage, or debris so as to cause an unsightly or untidy condition, a hazard, or a nuisance.



a) Old motor vehicles and old implements referred to in this section are those motor vehicles or old implements that are in disrepair, wrecked, or are abandoned by their owners.

10. No person shall dump or cause to be dumped any rubbish, debris, garbage, waste petroleum products (either liquid or solid) or to dispose of any material whatsoever in, about, near or upon any area within the Town of Fox Creek, other than at a designated landfill site.

11. No person shall park a vehicle, trailer and/or recreational vehicle in the front yard other than a driveway, unless it is for a temporary purpose, such as the loading or unloading of a vehicle for a time period not exceeding eight hours. Also there is to be no more than two off highway vehicles in the front yard at any one time.

12. a) Contractors and Developers shall at all building construction sites have and use an adequate container designed to contain all construction debris and rubbish.

b) Upon such container being filled it must be completely secured in such a manner so that no portion of the load can escape, blow, drop, spill or fall onto a highway or land adjacent thereto. It must then be transported away to an appropriate location designated for the disposal of such materials.

13. A Peace Officer may, for the purpose of performing his duties and exercising his powers under this bylaw, enter at any reasonable hour and inspect the land and premises.

14. Any person who enters property to remedy any condition as authorized by this bylaw shall not incur any liability therefore.

15. A Peace Officer who has reason to believe that a person has contravened any provisions of this bylaw may;

a) Issue a cleanup order to that person in the form specified by the Town; or

b) Commence a prosecution against that person in the form of a violation ticket or long information form for the contravention; or

c) Issue a violation ticket allowing for the voluntary payment as outlined in Schedule "A".

16. a) When a Peace Officer issues a cleanup order and the person fails to comply with the order in the time specified in the cleanup order, the Peace Officer may commence prosecution for the offense.

b) A clean up order shall be deemed sufficiently served, if served;

i) Personally on the person, firm or corporation or by leaving at his residence or business with a person on the premises who appears to be at least 18 years of age,

ii) by sending it by single or double registered mail to the last known address of the person, firm, or corporation,

iii) by publication in one issue of a newspaper published or circulating in the Town.

c) When a person complies with a clean up order, no prosecution shall be commenced with respect to the offense.

d) When a person(s) fails to comply with the clean up order, the Town may cause the condition of the premises to be remedied to the extent specified on the clean up



order and shall charge the costs of the work done to the person or persons to whom the clean up order was issued.

i) These costs involved are a debt due to the Town and may be recovered as such.

ii) The statement and demand for payment may be served by ordinary mail addressed to the occupant, at his last known address, and a copy to the owner of the land at his address on the assessment roll.

iii) If the person or persons on whom the statement is served fails to pay the amount set out in the statement within 30 days, the Town may cause the amount of the statement to be placed on the tax roll as an additional tax against the land concerned and the amount may be collected in the same manner as any property are due and payable.

17. Any person who contravenes or disobeys, or refuses or neglects to obey any provision of this bylaw by:

a) doing any act or thing which he is prohibited herein,

b) failing to do any act or thing he is required to do herein, is guilty of an offense and is liable on summary conviction to a fine of not less than five hundred dollars (\$500.00) and not more than five thousand dollars (\$5000.00) and in the event if failure to pay any fine levied to imprisonment for a period of not more than sixty days or until such fines are paid.

If a person is convicted of an offense under this bylaw, the court may order, in addition to a penalty, the convicted person clean up the nuisance, unsightly or untidy premises or land as the court considers appropriate.

18. Document attached and marked Schedule "A" is hereby incorporated into and made part of this bylaw.

#### **DATE OF COMMENCEMENT**

19. This bylaw shall come into full force and effect upon receiving third and final reading and this Bylaw No. 361-90 shall be repealed in its entirety.

FIRST READING of Bylaw No. 728 - 2013 granted this 22<sup>st</sup> day of July, 2013.

SECOND READING of Bylaw No. 728 - 2013 granted this 19<sup>th</sup> day of August, 2013.

THIRD AND FINAL READING of Bylaw No. 728 - 2013 granted this 19<sup>th</sup> day of August, 2013.

  
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Leora Mackinnon, Mayor

  
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Ken Gwozdz, Town Manager

### SCHEDULE "A"

The voluntary payment which may be accepted in lieu of prosecution for a contravention of any of the sections set out below shall be the sum set out opposite the Section Number.

### SCHEDULE "A"

SECTION	1ST OFFENCE	2ND OFFENCE	3RD OFFENCE	4TH OFFENCE AND THERE AFTER
3	WRITTEN	100.00	250.00	500.00 OR COURT
4	WRITTEN	100.00	250.00	500.00 OR COURT
5	WRITTEN	100.00	250.00	500.00 OR COURT
6	WRITTEN	100.00	250.00	500.00 OR COURT
8	WRITTEN	200.00	500.00	1000.00 OR COURT
9	100.00	200.00	500.00	1000.00 OR COURT
10	500.00	1000.00	1500.00	2500.00 OR COURT
11	100.00	200.00	500.00	1000.00 OR COURT
12	250.00	500.00	1000.00	2500.00 OR COURT

