

FLAGSTAFF COUNTY

BYLAW 02/23

NUISANCE BYLAW

BEING A BYLAW OF FLAGSTAFF COUNTY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING NUISANCE AND SAFETY ISSUES

WHEREAS, pursuant to section 7 of the *Municipal Government Act* a council may pass bylaws for municipal purposes respecting the following matters:

- a) the safety, health and welfare of people and the protection of people and property;
- b) people, activities and things in, on or near a public place or place that is open to the public;
- c) nuisances, including unsightly property; and
- d) the enforcement of bylaws;

AND WHEREAS, pursuant to section 66(2) of the *Safety Codes Act*, a council may make bylaws respecting the following matters:

- a) minimum maintenance standards for buildings and structures; and
- b) unsightly or derelict buildings or structures;

AND WHEREAS, Council deems it advisable to pass a Bylaw to regulate nuisance and safety issues;

NOW THEREFORE, the Council of Flagstaff County, duly assembled, enacts as follows:

PART 1 - TITLE, DEFINITIONS AND INTERPRETATION

1. Short Title

1.1 This Bylaw shall be cited as the "Nuisance Bylaw".

2. Definitions

2.1 In this Bylaw:

- (a) "Boulevard" means that part of a Highway that:
 - i. is not a roadway; and
 - ii. is that part of the Sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians;
- (b) "Chief Administrative Officer" means the chief administrative officer of the County or their delegate;
- (c) "Compost" or "Composting" means the managed practice of recycling organic material, including food and yard waste, through biological degradation in a container or pile, to create a usable soil conditioner;
- (d) "County" means the municipal corporation of Flagstaff County and includes the geographical area within the boundaries of the County where the context so requires;
- (e) "Highway" has the same meaning as in the *Traffic Safety Act*;
- (f) "Land Use Bylaw" means a bylaw passed by the County pursuant to section 640 of the *Municipal Government Act*;
- (g) "Litter" means any solid waste or liquid material or product, combination of solid or liquid materials, or liquid materials or products, which includes but is not limited to

- any rubbish, garbage, paper, packages, containers, bottles, cans, metal, human or animal excrement, or the whole or part of an animal carcass, or the whole or part of any article, raw or processed material, or a dismantled or inoperative Vehicle, Motor Vehicle, or other machinery and equipment;
- (h) "Motor Vehicle" has the same meaning as in *Traffic Safety Act*; inclusive of an implement of husbandry;
- (i) "Hamlet" means the Hamlets of Flagstaff County located within the County;
- (j) "Municipal Tag" means a tag or similar document issued by the County pursuant to the *Municipal Government Act* that alleges a bylaw offence and provides a Person with the opportunity to pay an amount to the County in lieu of prosecution for the offence;
- (k) "Naturalization Efforts" means the re-establishment of a reproducing population of native species, through a combination of natural regeneration and deliberate plantings of species or other species to emulate a natural area on a portion of a lot where a lawn or perennial garden was previously maintained;
- (l) "Occupy" or "Occupies" means residing on or to be in apparent possession or control of Property, including but not limited to a lessee.
- (m) "Own" or "Owns" means:
- i. in the case of land, to be registered under the *Land Titles Act* as the owner of the fee simple estate in a parcel of land; or
 - ii. in the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it;
- (n) "Peace Officer" includes a member of the Royal Canadian Mounted Police, Community Peace Officers employed by the County and persons appointed as bylaw enforcement officers for the County;
- (o) "Person" means any individual, firm, partnership, association; corporation, trustee, executor, administrator or other legal representative;
- (p) "Property" means a parcel of land including any Structure;
- (q) "Public Place" means any Property, whether publicly or privately owned, to which members of the public have access as of right or by express or implied invitation; whether on payment of any fee or not;
- (r) "Reasonable State of Repair" includes the condition of being:
- i. structurally sound;
 - ii. free from significant physical or aesthetic damage;
 - iii. free from rot or other deterioration; and
 - iv. safe for its intended use;
- (s) "Recreational Vehicle" includes but is not limited to: a trailer, watercraft, off-road vehicle that is utilized for recreational or work purposes and any motor home, travel trailer, tent trailers, watercraft and trailer, fifth wheel trailer, a camper when it is not mounted on a truck but placed on the ground or stand, utility trailer, or any similar vehicles, regardless of whether it is capable of being transported or drawn on a Highway;
- (t) "Sidewalk" means that part of the Highway especially adapted to the use of or ordinarily used by pedestrians and includes that part of a Highway between the curb line or, where there is no curb line, the edge of the roadway, and the adjacent property line whether or not it is paved or unpaved;

- (u) "Structure" means any form of physical construction, whether built on site or moved in, including but not limited to any building, fence, retaining wall, scaffolding, shed, portable shack, or other similar types of construction or improvements;
- (v) "Vehicle" has the same meaning as in the *Traffic Safety Act*;
- (w) "Violation Ticket" has the same meaning as in the *Provincial Offences Procedure Act*;

3. Rules of Interpretation

- 3.1 Nothing in this Bylaw relieves a Person from complying with any provision of any Provincial or Federal legislation or regulation, other bylaw or any requirement of any lawful permit, order or licence.
- 3.2 The headings in this Bylaw are for guidance purposes and convenience only.
- 3.3 Every provision in this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
- 3.4 Any reference to the provisions of a statute of Alberta is a reference to that statute as amended, from time to time.

PART 2 – PROPERTY MAINTENANCE

4. Nuisance on Property

- 4.1 No Person shall cause or permit a nuisance to exist on any Property which they Own or Occupy.
- 4.2 For the purpose of greater certainty, a nuisance includes Property that shows sign of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, examples of which include, but are not limited to:
 - (a) excessive accumulation of material including but not limited to building materials, appliances, materials associated with the raising or keeping of animals, household goods, boxes, tires, Vehicle parts, garbage, refuse, Litter, or similar debris of any form whether a solid or liquid, and whether of any apparent value or not;
 - (b) open or exposed storage of any industrial fluid, including but not limited to engine oil, brake fluid, anti-freeze or hydraulic fluid;
 - (c) any loose Litter, organic waste or cuttings, refuse, garbage, flyers, papers, or similar debris of any form whether located in a storage area, collection area or elsewhere on the land;
 - (d) any loose building or construction materials, any accumulation of construction-related Litter, refuse, garbage, or similar debris of any form, or any untidy work or storage areas on the land;
 - (e) the presence or accumulation of animal carcasses, domestic animal feces, or animal parts;
 - (f) the failure to dispose of Litter, garbage, or other waste products accumulating in temporary storage containers within a reasonable time;
 - (g) damaged, dismantled, derelict, or inoperable Vehicles, Recreational Vehicles, or Motor Vehicles, whether insured or registered or not;
 - (h) any building, Structure, Motor Vehicle, Vehicle, or Recreational Vehicle displaying graffiti that is visible from any surrounding Property;
 - (i) a compost heap that is not stored within a physical container or which produces offensive odours that interfere with the use and enjoyment of neighbouring Property;
 - (j) production of any generally offensive odours;

- (k) grass higher than 15 centimetres;
 - (l) excessive weeds, including but not limited to noxious and prohibited weeds as defined in the *Weed Control Act*;
 - (m) production of excessive dust, dirt or smoke;
 - (n) any tree, shrub, other type of vegetation or any Structure that:
 - i. interferes or could interfere with any public work or utility;
 - ii. obstructs any Sidewalk adjacent to the land;
 - iii. impairs visibility required for safe traffic flow at any intersection adjacent to the land; or
 - iv. has any rot or other deterioration;
 - (o) any accessible excavation, ditch, drain or standing water that could pose a danger to the public;
 - (p) an infestation of rodents, vermin or insects; or
 - (q) failure to keep Property in a Reasonable State of Repair including but not limited to:
 - i. the significant deterioration of a building, Structure, improvements, or portions thereof;
 - ii. broken or missing windows, doors, stairs, landings, balconies, patios, fences, siding, shingles, shutters, eaves or other building material;
 - iii. significant fading, chipping, peeling, rotting or absence of paint on areas of a building, Structure, improvement or signage located on the Property; or
 - iv. the presence of a public safety hazard.
- 4.3 Nothing in this section shall prohibit a Person that Owns or Occupies a Property located outside of a Hamlet General (HG) from undertaking Naturalization Efforts on the Property.

5. Construction Sites and Outdoor Storage of Building Materials

- 5.1 No Person shall store or permit to be stored, on Property they Own or Occupy, building materials, whether new or used, unless those materials are screened from view from off the Property or they can establish that construction is being carried out on the Property and that:
- (a) the project has begun or the beginning of work is imminent;
 - (b) the building materials on the Property relate to the project taking place on the Property and are of a quantity reasonable to complete the project; and
 - (c) the work on the project has not been suspended for a period in excess of 120 days.
- 5.2 A Person that Owns or Occupies a Property shall ensure that all building materials are stacked and stored in an orderly manner and in such a manner as to prevent the materials from being blown off or scattered from the Property.
- 5.3 During active construction, disposal of building material shall be done in accordance with any building permit and shall be collected and hauled from the site in appropriate containers in a timely manner.
- 5.4 Storage of building material must be located entirely on the Property where the construction is undertaken.

6. Unoccupied Buildings

- 6.1 If a building is unoccupied, the building shall be secured by the Person who Owns the building in such a manner as to prevent unauthorized access.
- 6.2 For the purposes of section 6.1, if the building is not secured by means of maintaining all doors, windows or other openings in a sound, and secured condition then any door, window or other opening that is not sound or secured shall be covered with a solid piece of wood, subject to the wood being:
- (a) installed from the exterior and fitted within the frame of the opening in a watertight manner;
 - (b) of a thickness sufficient to prevent unauthorized entry into the building;
 - (c) secured in a manner sufficient to prevent unauthorized entry into the building; and coated with an opaque protective finish in a manner that is not detrimental to the surrounding area.

7. Boulevards

- 7.1 A person shall maintain the Boulevard adjacent to Property they Own or Occupy by:
- (a) Keeping any grass on the Boulevard cut to a length of no more than 15 centimetres; and
 - (b) Removing any accumulation of fallen leaves, grass clippings, Litter or similar debris of any form within a reasonable time.

8. Sidewalks

- 8.1 A Person shall ensure any Sidewalk adjacent to Property they Own or Occupy is free of any Litter or similar debris and shall not cause or permit any obstruction of, or create a Nuisance condition on that Sidewalk.
- 8.2 A Person shall remove snow and ice from any Sidewalk adjacent to Property they Own or Occupy within 48 hours after the snow or ice has been deposited.
- 8.3 If a Person fails to comply with section 8.2, the County may arrange to have the Sidewalk cleared and the expenses and costs incurred by the County for removing the snow and ice shall be paid by the Person who Owns the Property upon demand and, if unpaid, may be added to the tax roll of the adjacent Property.
- 8.4 A Person shall not deposit snow or ice upon any Highway, Public Place or Property that is not their own.

9. Vehicles and Motor Vehicles

- 9.1 Notwithstanding section 4.2 (g)-(h) of this Bylaw, it shall not be an offence for a Person that Owns or Occupies a Property which is equal to or less than 10 acres within the Multi-Lot County Residential, Hamlet General, Agricultural or any residential lot in the Highway Commercial districts as provided in the Land Use Bylaw, to store no more than 2 damaged, dismantled, derelict, or inoperable Vehicles or Motor Vehicles, whether insured or registered on the Property, if covered by a tarpaulin or placed within a structure, in accordance with the Land Use Bylaw, or associated with a commercial business.
- 9.2 Notwithstanding section 4.2 (g)-(h) of this Bylaw, it shall not be an offence for a Person that Owns or Occupies a Property of over 10 acres within the Agricultural, Agricultural Small Holdings, Highway Commercial, Hamlet Industrial, Industrial, and Rural Industrial districts as provided in the Land Use Bylaw, to keep no more than 11 damaged, dismantled, derelict, or inoperable Vehicles or Motor Vehicles, whether insured or registered on the Property.
- 9.3 Notwithstanding section 4.2 (g)-(h) of this Bylaw, it shall not be an offence for a Person that Owns or Occupies a Property of over 10 acres within the Multi-Lot County Residential District as provided in the Land Use Bylaw, to store no more than 2 damaged, dismantled, derelict, or inoperable Vehicles or Motor Vehicles, whether

insured or registered on the Property, if covered by a tarpaulin or placed within a structure, in accordance with the Land Use Bylaw, or associated with a commercial business.

- 9.4 Notwithstanding sections 9.1, 9.2, or 9.3 of this Bylaw, if in the opinion of a Peace Officer a Vehicle or Motor Vehicle is considered damaged, dismantled, derelict, or inoperable as a result of an incident or accident, the Person that Owns or Occupies the Property shall not keep the Vehicle or Motor Vehicle on the Property for more than 14 days.
- 9.5 No Person that Owns or Occupies a Property shall keep or store a Vehicle or Motor Vehicle:
- (a) parked in a manner that, in the opinion of a Peace Officer, is not a neat and orderly fashion;
 - (b) parked in a manner that, in the opinion of a Peace Officer, impairs the line of sight for Vehicle or Motor Vehicle or pedestrian traffic to the point where it constitutes an unsafe or hazardous condition, or it constitutes any traffic or public safety hazard; and
 - (c) if within a Hamlet, on any portion of the Property except on an approved driveway, parking pad, or other similar area.

10. Appliances not Contained within a Building

- 10.1 No Person that Owns or Occupies a Property shall place or store, or allow to be placed or stored on the Property any appliance, including but not limited to, any refrigerator, freezer, washing machine, clothes dryer or other similar appliance, outside of a Structure, such that the appliance is visible from outside of the property.
- 10.2 Section 10.1, shall not apply to any functioning stove, oven, miniature refrigerator or similar appliance designed for outdoor use and forming part of an approved outdoor kitchen, entertainment, or similar area.
- 10.3 Notwithstanding section 10.1 and 10.2, a Person who Owns or Occupies a Property shall take all reasonable measures to prevent the opening and closing of any inoperative appliance.
- 10.4 Without limiting the generality of section 10.3, measures considered to be effective may include:
- (a) the complete removal of the door of the appliance;
 - (b) the removal of the door handle mechanism if this prevents the opening and closing of the door to the appliance;
 - (c) locking the appliance; or
 - (d) otherwise wrapping or containing the appliance so that the interior is inaccessible.

11. Compost Sites

- 11.1 No Person that Owns or Occupies a Property shall allow an open Composting pile or heap on the Property. All Composting sites must be within a container:
- (a) equipped with a lid or cover capable of completely covering the Composting site; and
 - (b) kept closed or covered at all times except for the loading or unloading of Composting materials.

PART 3 – ENFORCEMENT

12. Vicarious Liability

- 12.1 For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the

course of the agent exercising the powers or performing the duties on behalf of the Person under their agency relationship.

13. Corporations and Partnerships

- 13.1 When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- 13.2 If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

14. Inspections

- 14.1 A designated officer, for the purposes of ensuring that the provisions of this Bylaw are being complied with, may, upon reasonable notice, enter in or upon a Property, in accordance with section 542 of the *Municipal Government Act*, to carry out an inspection.

15. Offences and Penalties

- 15.1 A Person who contravenes any provision of this Bylaw is guilty of an offence.
- 15.2 A Person who is guilty of an offence is liable to a fine in an amount not less than that established in Schedule "A" and not exceeding \$10,000.00.
- 15.3 Without restricting the generality of section 15.2, the fine amounts set out in Schedule "A" are established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered.
- 15.4 A Peace Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 15.5 A Municipal Tag shall be served:
- (a) either personally; or
 - (b) by mailing a copy, via registered mail, to such Person at their last known postal address.
- 15.6 A Municipal Tag shall be in a form approved by the Chief Administrative Officer and shall state:
- (a) the name of the Person;
 - (b) a description of the Property upon which the offence has been committed, if applicable;
 - (c) the offence;
 - (d) the specified penalty established by this Bylaw for the offence;
 - (e) that the penalty shall be paid within 30 days of the issuance of the Municipal Tag; and
 - (f) any other information as may be required by the Chief Administrative Officer.
- 15.7 Where a Municipal Tag is issued pursuant to this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay to the County the penalty specified within the time period indicated on the Municipal Tag.
- 15.8 If a Municipal Tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Peace Officer is hereby authorized and

empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*.

15.9 Notwithstanding section 15.8, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act* to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

15.10 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:

- (a) state the specified penalty for the offence as set out in Schedule "A"; or
- (b) require a Person to appear in court without the alternative of making a voluntary payment.

15.11 A Person who commits an offence may:

- (a) if a Violation Ticket is issued in respect of the offence; and
- (b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

15.12 When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to section 15.11 and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.

15.13 Nothing in this Bylaw shall be construed to limit or hinder the ability of the County to issue an order pursuant to section 545, 546, or 645 of the *Municipal Government Act*.

16. Non-Compliance with an Order

16.1 A person who fails to meet conditions of an order issued by the County under section 545, 546, or 645 of the *Municipal Government Act* is guilty of an offence and subject to a fine as prescribed in Schedule "A".

PART 4 - GENERAL

17. Obstruction

17.1 No Person shall obstruct, hinder or impede any Peace Officer, designated officer, or County employee, contractor or agent in the exercise of any of their powers or duties under this Bylaw.

18. Powers of the Chief Administrative Officer

18.1 Without restricting any other power, duty or function granted by this Bylaw, the Chief Administrative Officer may:

- (a) take any steps or carry out any actions required to enforce this Bylaw;
- (b) take any steps or carry out any actions required to remedy a contravention of this Bylaw;
- (c) establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;
- (d) establish forms for the purposes of this Bylaw;
- (e) issue permits with such terms and conditions as are deemed appropriate;
- (f) establish the criteria to be met for a permit pursuant to this Bylaw; and

(g) delegate any powers, duties or functions under this Bylaw to an employee of the County.

18.2 Notwithstanding Section 14.1 of this Bylaw, the Chief Administrative Officer may carry out any inspection to determine compliance with this Bylaw.

PART 5 – EFFECTIVE DATE

19. Enactment

19.1 This Bylaw shall come into force and effect when it has received third reading and has been duly signed.

Read a first time in Council this 11th day of January, A.D. 2023.

[Signature]
Reeve

[Signature]
Chief Administrative Officer

Read a second time in Council this 11th day of January, A.D. 2023.

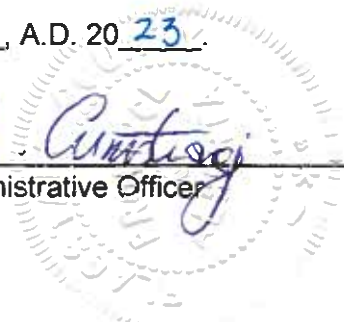
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Reeve

[Signature]
Chief Administrative Officer

Read a third time in Council this 11th day of January, A.D. 2023.

[Signature]
Reeve

[Signature]
Chief Administrative Officer



Schedule "A"
Fines and Penalties

OFFENCE	SECTION	MUNICIPAL TAG	FIRST OFFENCE	SECOND AND SUBSEQUENT OFFENCE
Causing or permitting a nuisance to exist on Property	4.1	\$500.00	\$750.00	\$ 1,000.00
Improper storage of building materials	5.1-5.4	\$500.00	\$750.00	\$1,000.00
Failure to secure an unoccupied building	6.1-6.2	\$500.00	\$750.00	\$1,000.00
Failure to maintain Boulevard adjacent to Property	7.1	\$500.00	\$750.00	\$1,000.00
Failure to ensure Sidewalk is free of any Litter	8.1	\$500.00	\$750.00	\$1,000.00
Failure to clear snow or ice from a sidewalk within 48 hours	8.2	\$500.00	\$750.00	\$1,000.00
Depositing snow or ice onto a Highway, Public Place, or Property not their own	8.4	\$500.00	\$750.00	\$1,000.00
Keeping of damaged Vehicle or Motor Vehicle on Property for more than 14 days	9.4	\$500.00	\$750.00	\$1,000.00
Improper storage of Vehicle or Motor Vehicle	9.5	\$500.00	\$750.00	\$1,000.00
Improper placement or storage of appliance	10.1	\$500.00	\$750.00	\$1,000.00
Failure to take all reasonable measures to prevent the opening and closing of inoperative appliance	10.3	\$500.00	\$750.00	\$1,000.00
Improper storage of Compost	11.1	\$500.00	\$750.00	\$1,000.00
Failure to meet conditions of an Order	16.1	\$500.00	\$750.00	\$1,000.00
Obstruction of Person in exercise of powers or duties under the Bylaw	17.1	\$500.00	\$750.00	\$1,000.00