

**BY-LAW NO. 5/2014
COUNTY OF FORTY MILE NO. 8**

A BY-LAW OF THE COUNTY OF FORTY MILE NO. 8 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 Chapter M-26, as amended or replaced from time to time, provides the Council of the County of Forty Mile No. 8 the authority to pass By-Laws respecting Nuisances and Dangerous and Unsightly Premises;

AND WHEREAS the Safety Codes Act, R.S.A. 2000 Chapter S-1, as amended or repealed and replaced from time to time provides the Council of the County of Forty Mile No. 8 with the authority to establish minimum standards for the maintenance of buildings and structures;

AND WHEREAS Council of the County of Forty Mile No. 8 deems it expedient and in the public's interest to pass a By-Law to establish and enforce minimum standards relating to the state of maintenance of property and to regulate, control and abate Nuisances, and Dangerous and Unsightly Premises within the County of Forty Mile No. 8;

NOW THEREFORE the Council of the County of Forty Mile No. 8 pursuant to the authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

1. Title

This By-Law shall be known as the County of Forty Mile No. 8 "Nuisance and Unsightly Premises By-Law".

2. Definitions

2.1 **"Abandoned Equipment"** means equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition, and includes any household appliance stored outside of a residence or other building regardless of whether or not in an inoperative condition.

2.2 **"Abandoned Vehicle"** means the whole or any part of any motor vehicle or farm implement that:

2.2.1 is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition, and is not located in a building or located on the property such that it can be concealed from view; or

2.2.2 has no current licence plate attached to it and in respect of which, no registration certificate has been issued for the current year; and

2.2.3 is inoperative by reason of removed parts or equipment, and is not located within a building or located on property such that it can be concealed from view.

2.3 **"By-Law Enforcement Officer"** means a By-Law Enforcement Officer appointed by the County pursuant to the Municipal Government Act, for the purpose of enforcing County By-Laws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Peace Officer.

2.4 **"Committee"** means the By-Law Protective Services Committee.

2.5 **"Council"** means the Municipal Council of the County of Forty Mile No. 8.

2.6 **"County"** means the County of Forty Mile No. 8.

2.7 **"Designated Officer"** means a By-Law Enforcement Officer and/or such other person as may be appointed by the County Administrator from time to time.

2.8 **"Hamlet"** means the Hamlets of Burdett, Etzikom, Manyberries, Nemiscam, Orion, Skiff, Whitla, and Winnifred.

2.9 **"Municipal Government Act"** means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended or repealed and replaced from time to time.

- 2.10 **“Nuisance”** means any condition or use of property which, in the opinion of a Designated Officer, or Council, constitutes an unreasonable interference with the use and enjoyment of other property and includes, without limiting the foregoing, those conditions set out in Section 3.5.
- 2.11 **“Occupant”** means any person other than the registered owner who is in possession of the property, including, but not restricted to, a lessee, licensee, tenant or agent of the owner.
- 2.12 **“Order”** means an order as described in Section 545 or Section 546 of the Municipal Government Act.
- 2.13 **“Owner”** means:
- 2.13.1 any person registered as the owner of property under the Land Titles Act, R.S.A. 2000, Chapter L-4, as amended or repealed and replaced from time to time;
- 2.13.2 a person who is recorded as the owner of the property on the assessment roll of the County;
- 2.13.3 a person who has purchased or otherwise acquired the property, whether he has purchased or otherwise acquired directly from the owner or from another purchaser, and has not become the registered owner thereof;
- 2.13.4 a person holding himself out as the person having the powers and authority of ownership or for whom the time being exercises the powers and authority of ownership;
- 2.13.5 a person controlling the property under construction; or
- 2.13.6 a person who is the occupant of the property under a lease, licence or permit.
- 2.14 **“Person”** includes a corporation, an individual, and the heirs, executors, administrators or other legal representatives of an individual.
- 2.15 **“Property”** means any lands, buildings, structures or premises, or any personal property located thereupon, within the municipal boundaries of the County.
- 2.16 **“Provincial Offences Procedures Act”** means the Provincial Offences Procedures Act, R.S.A. 2000, Chapter P-34, as amended or repealed and replaced from time to time.
- 2.17 **“Public Lands”** means all lands under the ownership and control of Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Alberta, or the County.
- 2.18 **“Refuse”** means all solid and liquid wastes including, but not limited to, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, chemicals, hazardous materials, abandoned vehicles, abandoned equipment, tires, manure or any other form of waste or litter.
- 2.19 **“Reasonable State of Repair”** means the condition of being:
- 2.19.1 structurally sound;
- 2.19.2 free from damage;
- 2.19.3 free from rot or other deterioration; or
- 2.19.4 safe for its intended use.
- 2.20 **“Unightly Premises”** means any property, whether land, buildings, improvements to lands or buildings, personal property, or any other combination of the above, located on land within the County that, in the opinion of a Designated Officer, or Council, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the unsightly premises, or is otherwise detrimental to the surrounding area or in an unsightly condition as defined by the Municipal Government Act.
- 2.21 **“Urban Area”** includes a Hamlet and any other lands located within a residential district.
- 2.22 **“Violation Tag”** means a tag or similar document issued by the County pursuant to the Municipal Government Act.
- 2.23 **“Violation Ticket”** means a ticket issued pursuant to Part 2 of the Provincial Offences Procedure Act, and any Regulations thereunder.
- 2.24 In this By-Law, whenever the male gender is specified it shall be interpreted as meaning both male and female as applicable.

3. Prohibitions

- 3.1** An owner or occupant of property shall not cause or allow that property or his use of that property to constitute a Nuisance.
- 3.2** An owner or occupant of property shall not cause or allow that property to be a Danger to Public Safety or an Unsightly Premises.
- 3.3** No person shall cause, permit or allow refuse, abandoned equipment or abandoned vehicles to collect, accumulate, or be stored upon property owned or occupied by him, or under his responsibility, or upon Public Lands, adjoining property owned or occupied by him or under his responsibility, unless such a site is designated by the County as a sanitary land fill site.
- 3.4** No person shall cause, permit or allow refuse, abandoned equipment or abandoned vehicles to accumulate in any building or structure within the County, except in appropriate containers provided for the temporary storage of refuse or other waste materials for pickup and disposal at a sanitary landfill, recycling centre or other waste management facility.
- 3.5** Conditions constituting a Nuisance, Danger and/or Unsightly Premises may include, but shall not be limited to:
 - 3.5.1** the accumulation of rubbish, refuse or other waste products on property;
 - 3.5.2** uncut grass or the presence of weeds, which in the opinion of the By-Law Enforcement Officer, are excessive or which demonstrate neglect by the owner;
 - 3.5.3** the accumulation of animal material, ashes or scrap building material;
 - 3.5.4** the accumulation of abandoned vehicles, abandoned equipment or household appliances;
 - 3.5.5** the presence or accumulation of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
 - 3.5.6** the presence of trees, shrubs, weeds or other vegetation which as a result of its location on the property has caused, or is causing damage to adjacent property, including Public Lands;
 - 3.5.7** the failure to dispose of refuse or other waste products accumulating in temporary storage containers upon the property.
 - 3.5.8** the lack of repair or maintenance of buildings, structures or property, including but not limited to:
 - 3.5.8.1** the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements;
 - 3.5.8.2** broken or missing windows, siding, shingles, shutters, eaves or other building material; or
 - 3.5.8.3** significant fading, chipping or peeling of painted areas of buildings, structures or improvements on property.
 - 3.5.9** the presence of excavations, structures, materials or any other hazard or condition which poses a danger to public safety.
- 3.6** Notwithstanding Section 3.5.5 the accumulation of manure or other animal waste on property located in an agricultural district shall not constitute a Nuisance under this By-Law.

4. Maintenance Standards in Urban Areas

- 4.1** All buildings, structures and improvements to property in Urban Areas shall be maintained so that:
 - 4.1.1** the foundations;
 - 4.1.2** exterior walls;
 - 4.1.3** roof;
 - 4.1.4** windows, including frames, shutters and awnings;
 - 4.1.5** doors, including frames and awnings;
 - 4.1.6** steps and sidewalks; and
 - 4.1.7** fences;
- are kept in a "*Reasonable State of Repair*".

- 4.2 All fixtures, improvements, renovations, or additions to any building, structure or improvement on property, including but not limited to:
- 4.2.1 exterior stairs;
 - 4.2.2 porches;
 - 4.2.3 decks;
 - 4.2.4 patios;
 - 4.2.5 landings;
 - 4.2.6 balconies; or
 - 4.2.7 other similar structures
- Shall be maintained in a *“Reasonable State of Repair”*.

5. Enforcement

- 5.1 A Designated Officer may, for the purpose of ensuring that the provisions of this By-Law are being complied with to enter in or upon any property, in accordance with Section 542 of the Municipal Government Act, to carry out an inspection, enforcement or other action required or authorized by this By-Law, the Municipal Government Act, or other statute.
- 5.2 When exercising his authority to enter onto property for inspection or enforcement under Section 5.1, a Designated Officer shall provide the owner or occupant of the property with reasonable notice as required by the Municipal Government Act.
- 5.3 Any owner or occupant who contravenes this By-Law may be issued an Order by a Designated Officer to remedy the contravention in any manner deemed necessary in the circumstances pursuant to Section 545 of the Municipal Government Act, in the case of a Nuisance, or Section 546 of the Municipal Government Act, in the case of a Danger to Public Safety or Unightly Premises.
- 5.4 The Order issued by the Designated Officer under Section 5.3 may, in the case of a Nuisance:
- 5.4.1 direct an owner to stop doing something, or change the way in which the owner is doing that thing;
 - 5.4.2 direct an owner to take any action or measure necessary to remedy the contravention of this By-Law, including the removal demolition of a building, structure or improvement that has been erected or placed in contravention of this By-Law and, if necessary, to prevent the recurrence of the contravention;
 - 5.4.3 state a time within which the owner or occupant must comply with the directions;
 - 5.4.4 state that if the owner or occupant does not comply with the direction within the specified time, the County may take action for measures at the expense of the owner or occupant, the said expense being recoverable in accordance with the provisions of this By-Law and the provisions of the Municipal Government Act, and
 - 5.4.5 shall notify the owner of the right to apply by written notice for a review of the Order by County Council.
- 5.5 If, in the opinion of the Designated Officer, any property within the County is an Unightly Premises, or any building, structure, improvement, personal property, excavation or hole is a Danger to Public Safety, the Designated Officer may by written Order:
- 5.5.1 require the owner or occupant of the Unightly Premises to remove or demolish the Unightly Premises;
 - 5.5.2 require the owner or occupant of the Unightly Premises to improve the appearance of the property in the manner specified, or if the property is a building, structure or improvement, to remove or demolish that building, structure or improvement and level the site;
 - 5.5.3 require the owner or occupant of the property to eliminate the Danger to Public Safety in the manner specified, or to remove or demolish the building, structure or improvement and level the site;
 - 5.5.4 require the owner or occupant of the property that contains an excavation or hole to eliminate the Danger to Public Safety in the manner specified, or to fill in the excavation of hole and level the site;

- 5.5.5 state a time within which the owner or occupant must comply with the Order;
- 5.5.6 state that if the owner or occupant does not comply with the Order within the time specified, the County may take action or measures at the expense of the owner or occupant, the said expenses being recoverable in accordance with the provisions of this By-Law, and the provisions of the Municipal Government Act, and
- 5.5.7 shall notify the owner or occupant of the right to apply by written notice for a review of the Order by County Council.
- 5.6 An owner or occupant who receives a written Order under this part may request a review of the Order by written notice within fourteen (14) days of the day on which the Order is received. Upon reviewing the Order, Council may confirm, vary, substitute or cancel the Order.
- 5.7 An owner or occupant or other person affected by the decision of Council under Section 5.6 may appeal to the Court of Queen's Bench, within the time period set out in the Municipal Government Act if:
 - 5.7.1 the procedure required to be followed by the Municipal Government Act or this By-Law was not followed; or
 - 5.7.2 the decision was patently unreasonable.
- 5.8 The application for appeal must state the reasons for the appeal.
- 5.9 The Court may:
 - 5.9.1 confirm the decision; or
 - 5.9.2 declare the decision invalid and send the matter back to Council with directions.
- 5.10 A municipality may take whatever action or measures are necessary to remedy / eliminate a contravention as described in Sections 549 and 550 of the Municipal Government Act.
- 5.11 If the County sells all or part of a building, structure, improvement, abandoned vehicle or equipment that has been removed under this By-Law, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the owner or occupant if entitled to them.
- 5.12 The expenses and costs incurred by the County in the enforcement of this By-Law may be collected as a civil debt or added to the tax roll of the property that is the subject of the enforcement proceedings under the By-Law.
- 5.13 The County may register a caveat under the Land Titles Act in respect of an Order issued under this By-Law against the Certificate of Title for the property that is the subject of the Order.
- 5.14 If the County registers a caveat under Section 5.13 of this By-Law, the County must discharge the caveat when the Order has been complied with or when the County has performed the actions or measures referred in the Order.

6. Offences and Penalties

- 6.1 Notwithstanding whether an Order has been issued under Part 5 of this By-Law, any person who contravenes any provision of this By-Law is guilty of an offence and is liable, on summary conviction, to pay a penalty as set out at Schedule "A" herein.
- 6.2 Under no circumstances shall any person contravening any provision of this By-Law be subject to a penalty of imprisonment.

7. Violation Tags

- 7.1 A By-Law Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person, who the By-Law Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this By-Law.

- 7.2 A Violation Tag shall be served upon such a person personally, or in the case of a corporation, by serving the Violation Tag personally upon the Manager, Secretary or other Executive Officer, or person apparently in charge of a branch office, by mailing a copy to such person by registered mail, or the case of an individual, by leaving it with a person on the premises who has the appearance of being at least eighteen (18) years of age.
- 7.3 The Violation Tag shall be in a form approved by the County Administrator and shall state:
- 7.3.1 the name of the owner and/or occupant of the property;
 - 7.3.2 a description of the property;
 - 7.3.3 the offence;
 - 7.3.4 the appropriate penalty for the offence as specified in Schedule "A" of this By-Law;
 - 7.3.5 that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tags; and
 - 7.3.6 any other information as may be required by the County Administrator.
- 7.4 Where a contravention of this By-Law is of a continuing nature, further Violation Tags may be issued by a By-Law Enforcement Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
- 7.5 Where a Violation Tag is issued pursuant to 7.1 or 7.3 of this By-Law, the person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the County the penalty specified on the Violation Tag.

8. Violation Ticket

- 8.1 In those cases where a Violation Tag has been issued and the penalties specified on the Violation Tag has not been paid within the prescribed time, then a By-Law Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, as amended or repealed and replaced from time to time.
- 8.2 Notwithstanding Section 7.1 of this By-Law, a By-Law Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any person whom the By-Law Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this By-Law.

9. Severability

Should any provision of this By-Law be invalid, then such provision shall be severed and the remaining By-Law shall be maintained.

10. Repeal of By-Law

By-Law 21/2002 is hereby repealed.

SCHEDULE "A"
to
By-Law 5/2014

NUISANCE AND UNSIGHTLY PREMISES BY-LAW

Penalties

Any owner/occupant that does not comply with the directions set out by the Nuisance and Unsightly Premises By-Law may be subject to a fine of:

- A. \$300.00 for the first offence; and
- B. \$500.00 for any subsequent offences.