

TOWN OF WAINWRIGHT BYLAW 2011-04

A BYLAW TO PREVENT AND COMPEL THE ABATEMENT OF NUISANCES

WHEREAS pursuant to the provisions of the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended, a municipality may pass bylaws respecting nuisances, including unsightly properties;

AND WHEREAS under the same act, a municipality may pass bylaws respecting people, activities and things in, on or near a public place or place that is open to the public;

NOW THEREFORE the Council of the Town of Wainwright, in the Province of Alberta, duly assembled, does hereby enact:

PART 1 – TITLE AND DEFINITIONS

1.1 TITLE

This bylaw shall be known as the “Nuisance Bylaw”.

1.2 GENERALITY IMPLIED

Wherever the singular or masculine is used throughout this bylaw, the same shall be construed to mean the plural or feminine respectively where applicable.

1.3 DEFINITIONS

For the purpose of this bylaw:

- (1) “Chief Administrative Officer” means the Chief Administrative Officer appointed by the Town or a representative authorized by him/her;
- (2) “Council” means the Council of the Town of Wainwright;
- (3) “Fence” means a vertical physical barrier constructed to delineate a piece of land, provide sound abatement, or prevent visual intrusions or passage of persons, vehicles or animals;
- (4) “Graffiti” means words, figures, letters or drawings scribbled, scratched or sprayed on a surface with or without the consent of the owner of the property on which they are placed;
- (5) “Nuisance” means any situation, use or activity upon any property which is offensive to any person acting reasonably, or has or may be reasonably expected to have a detrimental impact upon any person or other property in the neighborhood and without limiting the generality of the foregoing, includes the following:
 - (a) the failure to cut grass, weeds or other vegetation,
 - (b) the causing of opaque or dense smoke and permitting such smoke to be emitted into the atmosphere, unless specifically permitted by an authorized Town official,
 - (c) the generation of excessive dust and permitting such dust to escape from the property,
 - (d) the emission of an unpleasant odor and permitting such odor to escape from the property,
 - (e) the use of any pesticide which has significant detrimental or environmental effect on surrounding property,
 - (f) the failure to control or eliminate insect pests harmful to the growth and development of trees, shrubs or any vegetable or plant life,
 - (g) the storage or accumulation of dilapidated vehicles or the storage of vehicles in excess of the number of vehicles permitted in the Community Standards Policy,
 - (h) the storage or accumulation of or failure to dispose of discarded or dilapidated furniture, household appliances, scrap metals, scrap lumber, cardboard, tires and motor vehicle parts,

- (i) the failure to dispose of any rubbish or garbage accumulated upon any property,
 - (j) the posting or exhibiting of posters, signs, billboards, placards, writings or pictures upon any fence or wall where the same are accumulated and become in a dilapidated condition,
 - (k) the failure to maintain a fence and the fence's structural components, and
 - (l) the failure to remove graffiti;
- (6) "Peace Officer" means a member of the Royal Canadian Mounted Police, a community peace officer appointed under the *Peace Officer Act*, S.A. 2006, Chapter P-3.5, and amendments thereto, or a bylaw enforcement officer appointed for or by the Town;
- (7) "Person" means any owner, agent, lessee or occupier including a corporation and the heirs, executors, administrators or other legal representative of a person or corporation;
- (8) "Town" means the Town of Wainwright, a municipal corporation in the Province of Alberta, and where the context so requires means the area contained within the corporate boundaries of the Town of Wainwright; and
- (9) "Unsightly Condition" means:
- (a) a structure whose exterior shows signs of significant physical deterioration relative to the adjacent land and land uses, or
 - (b) land that shows signs of serious disregard for general maintenance and upkeep relative to the adjacent land and land uses.

PART 2 – PROHIBITIONS

2.1 NUISANCE OR UNSIGHTLY PROPERTY

No person being the owner, agent, lessee or occupier of any property within the Town shall permit such property, or the activities upon such property, to be or become a nuisance or be in an unsightly condition.

2.2 NUISANCE ON TOWN PROPERTY

No person shall cause, permit or undertake any activity which constitutes a nuisance upon any Town property.

2.3 GRAFFITI

No person shall apply or create graffiti.

PART 3 – REMEDY OF NUISANCE

3.1 ENTRY ON LAND AND PREMISES

A peace officer is hereby authorized to enter any land, building or property, except a dwelling house, to carry out an inspection for conditions that fail to comply with any provisions of this bylaw.

3.2 ORDER TO REMEDY NUISANCE

Upon completion of an inspection, the peace officer may direct the owner or occupant of the property to:

- (1) cease the activity which causes the nuisance;
- (2) change the way in which a person is carrying out any activity;
- (3) direct any person to take any action or measure necessary to compel the elimination or abatement of the nuisance, including the removal of any thing or matter from the premises, which constitutes the nuisance;
- (4) specify the time in which such person must comply with the directions contained in the notice; and

- (5) notify the owner or occupant that if compliance with the notice is not effected within a specified time, the Town will take the actions or measures specified in the notice to abate the nuisance at the expense of the owner or occupier.

3.3 REMOVAL OF NUISANCE

The Chief Administrative Officer may authorize any Town employee or other person to remove and put in storage or destroy anything placed upon Town property, which is in contravention to section 2.2, and charge all associated costs to the person responsible for creating the nuisance.

PART 4 – ENFORCEMENT

4.1 CONTRAVENTION

Any person who contravenes any of the provisions or requirements of this bylaw is guilty of an offence and is liable for and subject to the penalty as outlined in Schedule A.

4.2 OFFENCE TICKET

- (1) Where a peace officer has reasonable grounds to believe that a person has contravened any provisions of this bylaw, he/she may serve upon such person an offence ticket allowing the payment of the specified penalty listed in Schedule A to the Town within 14 days of the issuance of the offence ticket. Such payment shall be accepted by the Town in lieu of prosecution for the offence.

- (2) Service of an offence ticket shall be sufficient if it is:

- (a) personally served,
- (b) left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the offender, or
- (c) mailed by registered mail to the address of the offender, if known.

- (3) The offence ticket shall state:

- (a) the name and address of the offender if ascertainable,
- (b) the offence,
- (c) the location, date and time of the offence,
- (d) the appropriate penalty for the offence as specified in Schedule A of this bylaw, and
- (e) that the penalty shall be paid within fourteen (14) days of the issuance of the offence ticket to avoid prosecution for the offence.

4.3 CONTINUING OFFENCE

Unless otherwise stated in this bylaw, where contravention of this bylaw is of a continuing nature, further offence tickets may be issued by a peace officer, provided, however, that no more than one offence ticket shall be issued for each day that the contravention continues.

4.4 VIOLATION TICKET

- (1) If the penalty specified in an offence ticket is not paid within the prescribed time period, then a peace officer is hereby authorized to issue a violation ticket regarding the offence in accordance with the provisions of the Provincial Offences Procedure Act, Chapter P-34, R.S.A. 2000 and amendments thereto.

- (2) Notwithstanding section 4.2, a peace officer is hereby authorized and empowered to immediately issue a violation ticket to any person who the peace officer has reasonable grounds to believe has contravened any provision of this bylaw.

- (3) A violation ticket issued under subsections 4.4(1) or 4.4(2) shall specify a penalty as described in Schedule A.

4.5 MINIMUM FINE

The minimum fine for any contravention of this bylaw is \$50.

PART 5 – IMPLEMENTATION

5.1 REPEAL

This bylaw shall repeal Bylaw 2005-03 and amendments thereto upon this bylaw coming into force.

5.2 EFFECTIVE DATE

This bylaw shall come into full force and effect upon passing of the third reading.

READ a First Time in Council this 19th day of April, A.D., 2011.

Mayor

Chief Administrative Officer

READ a Second Time in Council this 3rd day of May, A.D., 2011.

Mayor

Chief Administrative Officer

READ a Third Time in Council and Finally Passed this 3rd day of May, A.D., 2011.

Mayor

Chief Administrative Officer

SCHEDULE A

SPECIFIED PENALTIES

<u>Section</u>	<u>Description</u>	<u>Specified Penalty</u>
2.1	Nuisance or unsightly premise	\$150.00
2.2	Nuisance on Town property	\$150.00
2.3	Application or creation of graffiti	\$500.00