

BRAZEAU COUNTY
BYLAW 751-11
BEING A BYLAW TO REGULATE NEIGHBOURHOOD NUISANCE,
SAFETY AND LIVEABILITY ISSUES

WHEREAS, the *Municipal Government Act*, RSA 2000, c. M-26, as amended, allows a Municipality to 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) nuisances, including unsightly property;
- c) the enforcement of bylaws made under the *Municipal Government Act* or any other enactment.

AND WHEREAS, the *Safety Codes Act* RSA 2000, c. S-1, as amended, allows a Municipality to make bylaws respecting the following matters:

- (a) Minimum maintenance standards for buildings and structures; and
- (b) Unsightly or derelict buildings or structures;

AND WHEREAS the *Agricultural Pests Act* RSA 2000, c. A-8 and *Weed Control Act* RSA 2000, c. W-5, as amended, grants certain powers and jurisdiction to Municipalities regarding Pests and Weeds;

AND WHEREAS, Council deems it expedient and in the public interest to regulate standards to deter unhealthy, dangerous, potentially dangerous or unattractive property and nuisances;

NOW THEREFORE the Brazeau County Council, duly assembled, hereby ENACTS AS FOLLOWS:

1. PART 1 - DEFINITION AND INTERPRETATION

- 1.1 This Bylaw may be cited as the Brazeau County "Community Standards Bylaw".
- 1.2 In this Bylaw, unless context otherwise requires, the following words or terms have the following meanings:
 - (a) "Compliance Order" means an order as described in Section 545 or Section 546 of the *Municipal Government Act*.
 - (b) "Chief Administrative Officer" or "CAO" means the individual appointed to the position of Chief Administrative Officer of Brazeau County.
 - (c) "Council" means the Municipal Council of Brazeau County.
 - (d) "County" means Brazeau County.
 - (e) "Chattel" means movable objects such as, but not limited to, vehicles, appliances, parts, or sheds.
 - (f) "Derelict Equipment" includes equipment or machinery which has been abandoned; equipment or machinery which is inoperative by reason of its disassembly, age, mechanical condition or other cause; or any household appliance stored outside of a residence or other building regardless of whether or not the appliance is in an operative condition.

- (g) "Derelict Vehicle" means the whole or any part of any motor vehicle or farm implement that:
- i. is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition by reason of removed parts or other such reason; or
 - ii. does not have a current license plate attached to it, or in respect of which no current registration certificate has been produced; and
 - iii. is not located in a building or located on the property such that it is concealed from view.
- (h) "Designated Officer" means the Chief Administrative Officer, a Peace Officer and/or any other person appointed by the Chief Administrative Officer.
- (i) "Good Repair" means a condition where none of the following is present:
- i. significant damage;
 - ii. peeling surfaces;
 - iii. broken, missing or fallen parts;
 - iv. rot or significant deterioration;
 - v. openings which are not secured against trespassers, or infiltration of air and precipitation; or
 - vi. other visual evidence of a lack of general maintenance.
- (j) "Graffiti" means any images, lettering or scratching, scrawled, painted or marked in any manner on Property without the consent of the property owner.
- (k) "Hamlet" means the Hamlets of Buck Creek, Cynthia, Lodgepole, Poplar Ridge, Rocky Rapids, and Violet Grove, or any other Hamlet which may be designated by the County after this Bylaw comes into effect.
- (l) "*Municipal Government Act*" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time.
- (m) "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, or any person residing at, or exercising control over or in regard to, the Property.
- (n) "Owner" means:
- i. any Person registered as the owner of Property pursuant to the *Land Titles Act*, R.S.A 2000, c.L-4, as amended or repealed and replaced from time to time;
 - ii. a Person who is recorded as the Owner of the Property on the assessment roll of the County;
 - iii. a Person who has purchased or otherwise acquired a Property, whether he has purchased or otherwise acquired directly from the Owner or from another purchaser, and has not become the registered Owner thereof;

- iv. a Person who is in the process of purchasing or otherwise acquiring a Property;
 - v. a Person holding himself out as the person having the powers and authority of ownership or a person whom in the time being exercises the powers and authority of ownership;
 - vi. a Person controlling the Property during construction;
 - vii. a Person who is the Occupant of the Property under lease, license or permit; or
 - viii. in respect of any Property other than land, the actual owner, occupant, operator, or Person in lawful possession of the Property.
- (o) "Person" includes a corporation, a partnership, an individual, or their representative, successors, heir(s), executor(s), administrator(s), or other legal representative(s).
 - (p) "Peace Officer" means a Peace Officer appointed by the Chief Administrative Officer or County Council for the purpose of enforcing County bylaws, and includes a member of the Royal Canadian Mounted Police or a Bylaw Enforcement Officer.
 - (q) "Property" means:
 - i. the whole or part of any parcel of land, including the buildings, structures or improvements thereon and land immediately adjacent to any buildings or structures;
 - ii. the external surface of all buildings or structures; or
 - iii. where the context so requires, a chattel.
 - (r) "Provincial Offences Procedures Act" means the Provincial Offences Procedures Act, R.S.A. 2000c. P-34, as amended or repealed and replaced from time to time.
 - (s) "Public Lands" means all lands owned by or under the control of Brazeau County.
 - (t) "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, derelict vehicles, derelict equipment, tires, manure or any other form of waste or litter.
 - (u) "Residential Development" means any land that is the site of one or more Residential Buildings and is designated by Brazeau County Land Use Bylaw as being within one of the following Land Use Districts:
 - i. Country Residential (CR), Country Residential Suburban Estates (CRS), Birchwood Village Greens Condominium (BVC), Modular/Manufactured Home Park (MHP), Medium Density Residential (MDR);
 - ii. Direct Control (DC), where the applicable land use guidelines allows a use which is residential;
 - iii. A Hamlet.
 - (v) "Structure" means any building, garage, retaining wall, scaffolding, garbage container, trailer, fence, mobile home, shed, portable shack or other improvement erected or placed in, on, over or under land, whether or not it is affixed to the land.

- (w) "Unsightly Premise" means any Property whether land, buildings, structures or improvements or personal property, or any other combination of the above, located within the County which, in the opinion of a Designated Officer is in an unsightly condition within the meaning of the *Municipal Government Act*.
 - (x) "Violation Tag" means a tag, ticket or similar document issued by the County which alleges an offence and provides the alleged offender with an opportunity to pay an amount to the County in lieu of prosecution for the offence.
 - (y) "Violation Ticket" has the same meaning as in the *Provincial Offences Procedure Act*.
- 1.3 In this Bylaw, whenever the male gender is specified it shall be interpreted as meaning both male and female as applicable.
 - 1.4 The Owner of any Property, is responsible for all activities on or in regard to the Property that may constitute prohibitions or breaches of this Bylaw.
 - 1.5 The registered owner of land, in accordance with the records of the Alberta Land Titles Office, is liable for any offences or contraventions of this Bylaw related to or committed on those lands.
 - 1.6 Nothing contained in sections 1.4 or 1.5 of this Bylaw prevents or restricts any prosecution or enforcement action being taken against any other person who may have breached or contravened this Bylaw.
 - 1.7 In determining whether an offence has occurred pursuant to this Bylaw, a Designated Officer will have regard to the zoning of land, as provided for by the County's Land Use Bylaw. However, nothing contained herein shall derogate from the requirements of the Land Use Bylaw.

2. PART 2 – PROPERTY MAINTENANCE

Land

- 2.1 No Person shall cause, allow or permit a Nuisance or an Unsightly Premise to exist on land they own or occupy.
- 2.2 For the purpose of greater certainty, a Nuisance or Unsightly Premise with respect to land means a condition, that in the opinion of a Designated Officer, indicates a serious disregard for general maintenance or upkeep, a disregard for the standards contained in this Bylaw, or a danger to public safety or property, some examples of which include but are not limited to the following:
 - (a) excessive accumulation of material including but not limited to construction equipment or machinery, building materials, appliances, household goods, boxes, tires, vehicle parts, garbage or refuse, whether of any apparent value or not;
 - (b) the failure to dispose of refuse or other waste products accumulating in temporary storage containers upon the property within a reasonable time;
 - (c) storage of inoperable, damaged, dismantled or Derelict Vehicle(s) or motor vehicle(s), whether insured or registered or not;
 - (d) uncut grass or the presence of weeds, which in the opinion of the Designated Officer, are excessive or which demonstrate neglect;

- (e) the excessive accumulation of feces, animal material, or carcasses;
- (f) production of any generally offensive odours, unless such odours are produced through reasonable and generally accepted agricultural practice, or by the reasonable and generally accepted operation of a permitted landfill or transfer station;
- (g) the presence of trees, shrubs, weeds or other vegetation which as a result of its location on the Property has caused, or may cause danger, or has or may cause damage, inconvenience or devaluation to adjacent property, including Public Lands;
- (h) excessively damaged or structurally unsound fence or retaining wall that borders Public Lands or other private lands;
- (i) the placement of any Property on Public Lands without the expressed approval of the County.
- (j) the presence of an excavation, or any other hazard or condition which poses a danger to public safety.

2.3 Notwithstanding Section 2.2 of this Bylaw:

- a) the accumulation of manure or other animal waste on Property located in an agricultural district as defined by the County Land Use Bylaw, shall not constitute a Nuisance under the Bylaw; and
- b) land located within an agricultural district, as defined by the County Land Use Bylaw, but not used for agricultural purposes, shall not constitute an Unsightly Premises if, in the opinion of a Designated Officer, the unsightly nature of the Property is properly screened so as to not be visible to the public.

Buildings

2.4 No person shall cause or permit a Nuisance or an Unsightly Premise to exist with respect to any building or structure on land they own or occupy.

2.5 For the purpose of greater certainty, a Nuisance or Unsightly Premise with respect to buildings or structures means a condition, that in the opinion of a Designated Officer, indicates a serious disregard for general maintenance or upkeep of the building or structure, a disregard for the standards contained in this Bylaw or a danger to public safety or property, some examples of which include but are not limited to the following:

- (a) the lack of repair or maintenance of buildings, structures or improvements, including but not limited to:
 - i. the significant deterioration of buildings, structures, or improvements, or portions of buildings, structures or improvements;
 - ii. broken or missing windows, siding, shingles, shutters, eaves or other building material; or
 - iii. significant fading, chipping or peeling or painted areas of buildings, structures or improvements on Property.
- (b) any graffiti displayed on the building that is visible from any surrounding property;
- (c) the presence of excavations, structures, materials or any other hazard or condition which poses a danger to public safety.

3. **PART 3 - MAINTENANCE AND STANDARDS IN RESIDENTIAL DEVELOPMENTS**

3.1 All buildings, structures and improvements to Property in a Residential Development shall be maintained so that the following are kept in Good Repair:

- (a) the foundations;
- (b) exterior walls;
- (c) roof;
- (d) windows; including frames, shutters and awnings;
- (e) doors, including frames and awnings;
- (f) steps and sidewalks; and
- (g) fences;

3.2 All fixtures improvements, renovations, or additions to any building, structure or improvement on Property in a Residential Development, shall be maintained in Good Repair, including, but not limited to:

- (a) Exterior stairs;
- (b) Porches;
- (c) Decks;
- (d) Patios;
- (e) Landings;
- (f) Balconies; or
- (g) Other similar structures

3.3 Within a Residential Development sidewalks and Municipally owned boulevards adjacent to a Persons' private property shall be maintained by that Person to be visually pleasing or match the landscaping of the front yard and be clear of all debris, garbage, yard material and tree branches so as not to interfere with use of the sidewalks or curbs.

4. **PART 4 - EXCLUSIONS AND EXEMPTIONS**

4.1 Standards, requirements and prohibitions of this Bylaw do not apply to the County, County Property or County operations.

5. **PART 5 – Enforcement**

Inspections

5.1 For the purpose of ensuring that the provisions of this Bylaw are being complied with a Designated Officer, may enter in or upon any Property, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other actions required or authorized by this Bylaw, the *Municipal Government Act*, or other statute.

- 5.2 Absent an emergency or extraordinary circumstances a Designated Officer exercising his authority to enter a Property for inspection or enforcement purposes shall provide the Owner or Occupant of the Property with reasonable notice as required by the *Municipal Government Act*.

Compliance Order

- 5.3 A Designated Officer is hereby authorized to issue Compliance Orders pursuant to Sections 545 or 546 of the *Municipal Government Act*.
- 5.4 In issuing a Compliance Order, a Designated Officer may require any action contemplated by the *Municipal Government Act* to be done, or not done, including, but not limited to:
- (a) stop doing something, or change the way something is done;
 - (b) take any action or measure necessary to remediate a Property;
 - (c) the removal of Derelict Vehicle(s), Derelict Equipment, material, goods or Refuse;
 - (d) the removal or demolition of building, structure or improvement.
 - (e) the improvement of the appearance of the Property in the manner specified.
 - (f) the remediation, removal or demolition of an Unsightly Premises;
 - (g) the improvement of the appearance of the Property in the manner specified, or if the Property is a building, structure or improvement, the removal or demolition of that building, structure or improvement and levelling of the site;
 - (h) the elimination of a danger to public safety in the manner specified, including the removal or demolition of the building, structure or improvement and levelling of the site;
 - (i) require the Owner or Occupant of the Property that contains an excavation or hole or other danger to eliminate the danger to public safety in the manner specified, or to fill in the excavation or hole and the levelling of the site.
- 5.5 A Compliance Order shall:
- (a) describe the Property by name, if any, or the municipal address or legal description;
 - (b) state what provisions of this Bylaw or the *Municipal Government Act*, or other enactment or bylaw have been contravened;
 - (c) state the particulars of what action or measure is required to remedy the contravention of this Bylaw;
 - (d) state the time which the actions or measures required to remedy the contravention are to be done,
 - (e) state that if the required action or measure is not done within the time specified, the County may take action or measures at the expense of the Owner or Occupant, and that the said expenses will be recoverable in accordance with the provisions of the *Municipal Government Act*;
 - (f) state that the Person to whom the Compliance Order is directed has a right to a review of the Order by Council within the time period specified by the *Municipal*

Government Act, and the required fee for such application as set out in Schedule "A", of this Bylaw.

Review and Appeal

- 5.6 An Owner or Occupant who receives a written Compliance Order, may request a review of the Order by written notice within the timelines and process specified in Section 547 of the *Municipal Government Act*.
- 5.7 An Owner or Occupant or other person affected by a decision under Section 547 of the *Municipal Government Act* may appeal to the Court of Queen's Bench, within the timelines and process set out in Section 548 of the *Municipal Government Act*.
- 5.8 The County reserves the right, as provided for in the *Municipal Government Act*, to recover any expenses or costs of any action or measures taken by the County pursuant to this Bylaw from an Owner, Occupant or other Person.

Offence, Fines and Penalties

- 5.9 Notwithstanding whether or not a Compliance Order has been issued pursuant to this Bylaw, any Person who contravenes the provisions of this Bylaw is guilty of an offence and is liable:
- (a) In the case of a Violation Tag, to a fine as prescribed in Schedule "A" of this Bylaw; or
 - (b) In the case of a Violation Ticket, a specified penalty in an amount equivalent to that prescribed by Schedule "A", or, upon summary conviction, to a fine and/or other penalty not to be less than the specified penalty in Schedule "A", and not to exceed the maximum amount or other penalties provided for by the *Municipal Government Act*.
- 5.10 The County at its sole discretion may seek any remedy against any person who contravenes any provision of this Bylaw and seeking one remedy will not restrict the County from seeking other remedies.
- 5.11 The payment of a Violation Tag or a Violation Ticket shall not relieve a Person from the necessity of paying any fees, charges, or costs or expenses for which that Person is Liable under this Bylaw or any other Bylaw, or enactment.

6 PART 6 – VIOLATION TAGS

- 6.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 6.2 A Violation Tag shall be served upon such a Person personally, or by mailing a copy to such Person by registered mail, or by leaving it with a person on the premises who has the appearance of being at least eighteen (18) years of age.
- 6.3 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
- (a) the name of the Owner and/or Occupant of the Property;
 - (b) a description of the Property;
 - (c) the offence;
 - (d) the appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;

(e) that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tags; and

(f) any other information as may be required by the Chief Administrative Officer.

6.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Peace Officer, provided however, that no more than one Violation Tag will be issued for each day that the contravention continues.

6.5 Where a Violation Tag is issued pursuant to s. 6.1 of this Bylaw, the Person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay the penalty specified on the Violation Tag to the County.

7 PART 7 – VIOLATION TICKETS

7.1 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, a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act*, as amended or repealed or replaced from time to time.

7.2 Notwithstanding Section 7.1 of this Bylaw, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any Person whom the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

8 PART 8- SEVERABILITY

8.1 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remaining Bylaw shall be maintained.

9 PART 10 - REPEAL

9.1 This Bylaw rescinds Bylaw 337-98.

10 PART 10 – EFFECTIVE DATE

This Bylaw shall come into effect after third reading and upon being signed.

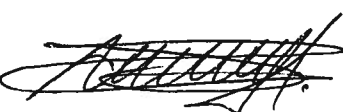
READ a first time this 19th day April, 2011

READ a second time this 19th day April, 2011

READ a third time this 19th day April, 2011



REEVE



CHIEF ADMINISTRATIVE OFFICER

SCHEDULE "A"

First Offence	\$300.00
Second Offence	\$400.00
Third and any subsequent offences	\$500.00

736370;March 16, 2011