

BY-LAW NO. 17-06
TOWN OF FALHER

A BY-LAW OF THE TOWN OF FALHER, IN THE PROVINCE OF ALBERTA, TO REGULATE UNTIDY AND UNSIGHTLY PREMISES, PESTS AND NUISANCES.

WHEREAS, pursuant to Section 7 of the Municipal Government Act, Being Chapter M-26 of the Revised Statutes of Alberta and amendments thereto, Council may, by by-law regulate nuisances, including unsightly property.

AND WHEREAS the Council of the Town of Falher deems it proper and expedient to pass such a By-law.

NOW THEREFORE the Council of the Town of Falher, in the Province of Alberta, in Council duly assembled enacts as follows:

1. **PURPOSE AND TITLE**

- A. The purpose of this Bylaw is to regulate nuisances, including unsightly premises
- B. This by-law may be cited as the Nuisance By-law.

2. **DEFINITIONS**

- A. **Boulevard** means that portion of a street which abuts, flanks or adjoins a Property, and any lands that lie directly between the boundary of a Property and an adjacent highway, road or alley.
- B. **Council** means the Council of the Town of Falher.
- C. **Derelict Equipment** means equipment or machinery which has been rendered inoperative by reason of its disassembly, damage, age or the deterioration of its mechanical condition and includes, but is not limited to, any household appliances stored outside of a residence or other structure, regardless of whether the household appliance is in an inoperative condition.
- D. **Derelict Vehicle** means the entirety or any portion of any motor vehicle, where that vehicle:
 - I. is in a rusted, wholly or partially damaged, dismantled, or inoperative condition, and is not located within a structure or located on Property such that it can be concealed from view of surrounding public and private lands;
 - II. has no subsisting license plate attached to it and, in respect of which, no registration certificate has been issued for the current year.
- E. **Designated Officer** means a Designated Officer as defined in the Act, or a delegate thereof.
- F. **Occupant** means any person occupying any property, whether they are the owner or lessee of such property or whether such person resides thereon or conducts a business thereon, and shall include a corporation lessee, or tenant.
- G. **Owner** means:

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- I. any Person registered as the Owner of Property under the *Land Titles Act*, R.S.A. 2000, c. L-4, as amended or repealed from time to time;
 - II. a Person who is recorded as the Owner of Property on the Assessment Roll of the Town;
 - III. a Person holding himself out as the Person exercising the power or authority of Ownership or, who for the time being exercises the powers and authority of Ownership over the Property;
 - IV. a Person in control of Property under construction; or
 - V. a Person who occupies the Property under a lease, license or permit.
- H. **Peace Officer** means a member of the Royal Canadian Mounted Police, a Community Peace Officer appointed by the Town, or a Bylaw Enforcement Officer appointed to enforce the Town's Bylaws.
- I. **Pest** means an animal, bird, reptile or insect that may, in the opinion of a Designated Officer, cause annoyance or harm to a person, animal or plant and includes any organism declared as a pest or nuisance pursuant to the *Agricultural Pests Act*, R.S.A. 2000, c. A-8, as amended or repealed and replaced from time to time.
- J. **Reasonable State of Repair** means 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.
- K. **Refuse** includes, but is not limited to:
- VI. all solid and liquid waste, debris, junk or effluent belonging to or associated with a house or household or any industry, trade or business;
 - VII. vehicle parts or accessories;
 - VIII. furniture, appliances, machinery or parts thereof;
 - IX. bottles, cans, and recyclable materials;
 - X. animal excrement; and
 - XI. any unused or unusable material that by reason of its state, condition or excessive accumulation, in the opinion of Designated Officer or Peace Officer, appears:
 - a. to have been discarded or derelict; or
 - b. to be useless or of no particular value; or
 - c. to be used up or worn out in whole or part.
- L. **Unightly or Untidy** means any property whether land, buildings, improvements to lands and buildings, or any other combination thereof, located within the Town that, in the opinion of a Designated Officer or Peace Officer, is Unightly to such an extent as to detrimentally affect the amenities, use, value or enjoyment of surrounding Properties in reasonable proximity to the Unightly Premises, or is otherwise detrimental to the surrounding area or in an Unightly condition as defined by the Municipal Government Act.

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3. NUISANCE

- A. An Occupant or Owner of a Property shall not cause, permit or allow that Property and adjacent boulevards or a use of that Property to constitute a Nuisance.
- B. Conditions constituting a Nuisance include, but are not limited to:
 - I. the accumulation of Refuse on Property;
 - II. grass in excess of fifteen (15) centimeters in length, or the presence vegetation which, in the opinion of a Designated Officer or Peace Officer, demonstrates neglect by the Occupant or Owner;
 - III. the presence of animal material, yard material, hazardous materials, noxious fumes, manure, sewage, ashes or scrap building material
 - IV. the presence of Derelict Vehicles or Derelict Equipment;
 - V. the presence of shrubs, trees, or other vegetation which, as a result of its location on the Property has caused or is causing damage to adjacent properties, or whose branches overhang lower than fourteen (14) feet, a road, lane or alley or which obstruct or overhang lower than seven (7) feet, a sidewalk or public place, including the obstruction of sight lines necessary for the safe operation of Motor Vehicles on a highway within the Town;
 - VI. the presence of weeds on a Property;
 - VII. the failure to keep Property in a Reasonable State of Repair, including a lack of repair or maintenance of buildings, structures or property, which includes but is not limited to:
 - VIII. the significant deterioration of buildings, structures, fences or improvements, or portions of buildings, structures or improvements;
 - IX. broken or missing windows, doors, doorframes, siding, stairs, steps, landings, balconies, patios, fences, shingles, shutters, eaves, or other any building materials
 - X. significant fading, chipping, peeling, rotting or absence of paint on areas of buildings, structures, fences or improvements on Property; and
 - XI. conditions that may create a danger to public safety in the opinion of a Designated Officer or Peace Officer

4. UNSIGHTLY AND DANGEROUS PREMISES

- A. An Occupant or Owner of a Property shall not cause, permit or allow that Property to become a danger to public safety or an Unsightly Premises.
- B. An Occupant or Owner of a Property may cause, permit or allow for the temporary storage of materials or Refuse resulting from the construction, demolition or alteration of a Property to be stored on the Property provided that:
 - I. It is removed in its entirety from the Property on a regular basis;
 - II. It will not pose a fire risk or a risk to the health or safety of the public; and
 - III. It is not stored in an unsightly manner;as determined by a Designated Officer,

5. VEGETATION AND PEST CONTROL

- A. An Occupant or Owner of a Property shall ensure that all vegetation on that Property is maintained and is not overgrown or unsightly.

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- B. An Occupant or Owner of a Property shall follow the Town's Tree Policy and must not allow plants or vegetation in any location which, in the opinion of a Designated Officer or Peace Officer, may adversely affect the safety of the public.
 - C. An Occupant or Owner of a Property shall take reasonable steps to prevent attracting, sustaining and breeding of Pests on that Property.
 - D. An Occupant or Owner of a Property shall maintain all Adjacent Boulevards in accordance with the provisions of this Bylaw.
6. The Designated Officer or Peace Officer is hereby authorized to enter lands within the Town of Falher, for the inspection of conditions that may contravene, or fail to comply with the provisions of this by-law.
7. When in the opinion of the Designated Officer or Peace Officer set forth in Section 13 of this by-law, a condition exists which contravenes any of the provisions of this by-law, the Designated Officer or Peace Officer shall:
- A. Issue a written notice to the owner, agent, lessee, and/or occupier of the land or premises in question advising them of the condition, and directing that the condition be rectified within seven (7) days from the date entered on the said notice.
 - B. Upon non-compliance to a written notice referred to in sub-section 14.A. issue an offence ticket to the owner, agent, lessee and/or occupier of the land or premises in question.
8. Any person receiving a notice may, within seven (7) days from the date of the notice, appeal by submitting a notice of appeal in writing to the Council of the Town of Falher, Box 155, Falher, Alberta, T0H 1M0 and deposit a fee of \$10.00 with the Municipal Administrator.
9. Should any property owner, agent, lessee or occupier fail, neglect or refuse to remedy the condition as directed by the Designated Officer, Peace Officer or Council, the Town of Falher may cause the work to be performed to remedy the condition, and charge the costs of such work to the owner, agent, lessee, or occupier.

Cost of work done may be:

- A. recovered as a debt due to the Town, or
- B. charged against the land concerned as taxes due and owing in respect of that land, and recover the same as such

10. Any person who enters property to remedy a condition, shall be deemed to have the authorization of Council, and shall not incur any liability therefore.
11. The Town of Falher may serve on the offending party an offence ticket for which voluntary payment may be made to avoid prosecution. The penalty for an offence ticket issued under this section, and section 7. B of this by-law, shall be as follows:

First offence	\$50.00
Second offense	\$75.00

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Third and subsequent offences
in one (1) calendar year.....\$100.00

12. Where a person fails to pay a voluntary payment offence ticket issued for contravention of this by-law, that person shall be liable, upon summary conviction to a fine of not less than \$250.00 dollars, and not more than \$1,500.00 dollars, exclusive of costs.

13. **ENACTMENT**

A. Bylaw No. 12-04 is hereby repealed.

B. This by-law shall take effect on the day of the final passing thereof.

READ a first time this _____ day of _____, 2017.

READ a second time this _____ day of _____, 2017.

READ a third time and finally passed this _____ day of _____, 2017.

MAYOR

MUNICIPAL ADMINISTRATOR