



VILLAGE OF DUCHESS

VILLAGE OF DUCHESS

BYLAW NO. 515-23

Unsightly Property Bylaw

A BYLAW OF THE VILLAGE OF DUCHESS IN THE PROVINCE OF ALBERTA TO REGULATE UNSIGHTLY PROPERTY.

WHEREAS the Municipal Government Act RSA 2000, c M-26 and regulations as amended, provides that Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people; the protection of people and property; nuisances; services provided by or on behalf of the municipality; public utilities; and the enforcement of bylaws;

AND WHEREAS no Owner or Occupant in control of property, land, premises or building shall permit, suffer, continue or allow to be continued an unsightly condition on that property, land, premises or building;

AND WHEREAS Section 546 of the Municipal Government Act RSA 2000, c M-26 and regulations as amended, authorizes Council to require the owner of the property that is in an unsightly condition to improve the appearance of the property.

NOW THEREFORE, the Council of the Village of Duchess, in the Province of Alberta, hereby enacts a follows:

TITLE

1. This Bylaw may be referred to as the **“Unsightly Property Bylaw”**.

DEFINITIONS

2. In this Bylaw, unless the content otherwise requires:
 - a) **“Act”** means the Municipal Government Act RSA 2000, c M-26 and regulations made under the Municipal Government Act as amended;
 - b) **“Building Material”** means all Construction and demolition material accumulated on Premises arising from the Construction,

alteration, repair or demolition of any Structure and includes, but is not limited to, earth, vegetation or rock displaced during such Construction, alteration, repair or demolition;

- c) **“Bylaw”** means the Village of Duchess Bylaw No. 515-23 as may be amended from time to time;
- d) **“Bylaw Enforcement Officer”** means a person appointed to enforce the provisions of this Bylaw, and includes a Community Peace Officer, a member of the Royal Canadian Mounted Police;
- e) **“Chief Administrative Officer”** means the Person appointed to the position of Chief Administrative Officer by the Council of the Village of Duchess and includes any Person that the Chief Administrative Officer may appoint as his designate for purposes of carrying out his responsibilities under this Bylaw and further includes any Person that may be appointed to act in the absence of the Chief Administrative Officer;
- f) **“Commercial”** means a business use or activity at a scale greater than home industry involving retail or wholesale marketing of goods and services;
- g) **“Construction”** means the temporary process of excavating, demolishing or building any Structure, or repairing or improving a Structure that already exists, including landscaping, home repair and/or renovation, Property improvement and any work in connection with that process
- h) **“Council”** means the Municipal Council of the Village of Duchess;
- i) **“Development Permit”** means a document that is issued by a development authority under the Village of Duchess Land Use Bylaw which authorizes a development;
- j) **“Designated Officer”** is defined under section 210 of the Municipal Government Act;
- k) **“Good Repair”** means maintaining the condition of an object or Structure such that it does not become untidy, Unightly or dangerous and such that the object or Structure can continue to be used in the means that it was originally intended. The condition should be free from:

- significant damage;
 - peeling surfaces;
 - broken, missing or fallen parts;
 - rot or other significant deterioration;
 - openings which are not secured against trespassers or infiltration of air and precipitation; or,
 - other visual evidence of a lack of general maintenance;
- l) **Graffiti**” means words, figures, letters, drawings, pictures, inscriptions, symbols, posters, advertisements or stickers applied, written, posted, exhibited, scribbled, scratched, etched, stained, sprayed or attached on or to the surface of any Premises, Structure or other Property that will disfigure however affixed, or be of an indecent or demoralizing nature, on the Premises, Structure or other Property, but for greater certainty, does not include an art mural or any other form of art which is approved by any Village policy;
- m) **“Improvement”** means a structure, or anything attached or secured to a structure that would be transferred without special mention by a transfer or sale of the structure, including but not limited to a manufactured home or mobile home, or machinery and equipment;
- n) **Industrial**” means the use of land and/or buildings for the purpose of manufacturing, processing, refining, storing, and/or distributing materials or products for sale or application elsewhere. Any on-premises sales shall be incidental to the operation of the industry
- o) **Litter**” means any solid or liquid material or product or combination of solid or liquid materials or products, including, but not limited to:
- any rubbish, refuse, garbage, paper, package, container, bottle, can, manure, or sewage or the whole or a part of an animal carcass; or
 - the whole or part of any article, raw or processed material, Motor Vehicle or other machinery, that is disposed of; or,
 - any other material or product that is designated as litter in the *Alberta Environmental Protection and Enhancement Act*, as amended and the Regulations thereunder;
- p) **Motor Vehicle**” as defined in the *Traffic Safety Act, R.S.A. 2000, Chapter T-6*, as amended, means:

- a vehicle propelled by any power other than muscular power;
 - a moped;
 - a motorcycle that is mounted on 2 or 3 wheels and includes those Motor Vehicles known in the automotive trade as motor cycles and scooters;
 - an off-Highway vehicle or any motorized mode of transportation built for cross-country travel on land, water, snow, ice or marsh or swamp land or on other natural terrain; but,
 - does not include a bicycle, a power bicycle, an aircraft, an implement of husbandry or a Motor Vehicle that runs only on rails;
- q) **“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;
- r) **“Order”** means a document issued by a Designated Officer pursuant to s.6 of this Bylaw, or s. 545 or s. 546 of the Act, requiring any Person to take any action necessary to remedy the contravention of this Bylaw or the Act;
- s) **“Owner”** includes the Person shown as the owner on the Land Title for a property, the occupant of a premises, the lessee or tenant of a premises, the Condominium Board of a condominium property, a property management company which holds itself out as the Person responsible for a premises, or the owner or operator of a Commercial Operation, as the case may require;
- t) **“Person”** means any person, firm, partnership, association, corporation, company or organization of any kind;
- u) **“Property”** means a parcel of land; an improvement, or; a parcel of land and the improvements to it;
- v) **“Structure”** means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land;

- w) **“Unsightly Property”** property described in Section 3 and 4 of this Bylaw;
- x) **“Village”** means the Village of Duchess, a Municipal Corporation in the Province of Alberta, or the geographical area contained within the boundaries of the Village of Duchess, as the context may require;
- y) **“Violation Tag”** means a tag or similar document issued by the Village pursuant to the Act;
- z) **“Violation Ticket”** means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, RSA 2000,c P-34, as amended or repealed and replaced from time to time, and any Regulations thereto.

Property Management

- 3. The standards, requirements and prohibitions contained in Section 3 shall apply to residential Premises, Vacant lots within Residential areas, Commercial Premises, and Industrial Premises.
- 4. For the purpose of greater certainty a Nuisance, in respect of land, may include but is not limited to:
 - a. accumulation of material including but not limited to Building Materials, appliances, boxes, packaging materials, bottles, cans, tires, whether of any apparent value or not;
 - b. loose garbage or refuse, Litter, Construction debris whether located in a storage area, collection area or elsewhere on the Premises;
 - c. any material that creates unpleasant odors;
 - d. any material likely to attract pests;
 - e. animal remains or animal feces;
 - f. household furniture, mattresses or other household goods;
 - g. parts of or disassembled machinery or equipment;
 - h. yard waste, including grass, tree(s) and hedge cuttings and smelly or messy compost heaps but excluding ground cover;
 - i. Motor Vehicle parts;
 - j. derelict Motor Vehicles or any trailer or object, which is in a wrecked, discarded, or abandoned condition, or is damaged or dismantled, whether insured or registered or not; and,
 - k. more than one unregistered Motor Vehicles.

Obligation to Maintain Property

5. No Owner or Occupier of a Premises within the Village shall permit their Premises to be or remain in an untidy or unsightly condition.
6. No Owner or Occupier of a Premises shall allow grass or weeds on the Premises, or on any adjacent Highway up to the center line, to exceed a height of six (6) inches.
7. No Owner or Occupier of a Premises within the Village shall allow material to accumulate so as to cause a Nuisance on the Premises whether the Nuisance is visible to a neighbour or from a Highway or Public Place or not.
8. No Owner or Occupier of a Premises within the Village shall allow the open or exposed storage on the Premises of any toxic fluid, including engine oil, brake fluid or antifreeze.
9. Every Owner or Occupier of a Premises within the Village shall ensure that the following are maintained in Good Repair:
 - a. fences and their structural members;
 - b. Structures and their structural members, including:
 - c. foundations and foundation walls;
 - d. exterior walls and their components;
 - e. roofs;
 - f. windows and their casings; and,
 - g. doors and their frames;
 - h. protective or decorative finishes of all exterior
 - i. surfaces of a Structure or fence; and,
 - j. exterior stairs, landings, porches, balconies and decks.
10. Steps, walks, driveways, parking spaces and similar areas will be maintained so as to afford the safe passage of emergency services under normal use and weather conditions.
11. An Owner or Occupier of a Premises shall repair all access points and entrances to private Property, that are located behind the curb and gutter, excluding the Village sidewalk.

Unoccupied Buildings

12. If a Structure normally intended for human habitation is unoccupied, then any door, opening or window opening in the Structure should be securely closed or may be covered with a solid piece of wood, but only if the wood is:

- 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 Structure;
- c. secured in a manner sufficient to prevent unauthorized entry into the Structure; and,
- d. coated with an opaque protective finish in a manner that is not detrimental to the surrounding area.

Appliances

- 13. No Owner or Occupier of a Premises within the Village shall allow any appliance to remain on the Premises such that the appliance is visible from outside of the Premises.
- 14. No Owner or Occupier of a Premises within the Village shall allow a refrigerator or freezer to remain on the Premises whether visible from outside of the Premises or not unless effective measures have been taken to prevent the opening and closing of the appliance, such as:
 - a. the complete removal of the door for the appliance;
 - b. the removal of the door handle mechanism if this prevents opening and closing of the door;
 - c. the removal of the door hinges;
 - d. locking the appliance; or,
 - e. otherwise wrapping or containing the appliance so that the interior is inaccessible.
- 15. Notwithstanding Subsection 13-14 , it shall not be an offence for an Owner or Occupier of a Premises to allow a refrigerator on the Premises:
 - a. if the refrigerator is not visible to a Person viewing from outside the Premises; and,
 - b. the refrigerator always remains locked with a padlock and key or similar device.

Outdoor Storage of Building Materials

- 16. No Owner or Occupier of a Premises within the Village shall allow the accumulation of Building Materials, whether new or used, such that they are visible to a neighbor or from a Highway or Public Place, unless that Owner or Occupier can establish that a Construction project is being carried out on the Premises, and that:
 - a. the project has begun, or the beginning of work is within thirty (30) days;
 - b. the materials found on the Premises relates to the project taking place on the Premises and is in a quantity reasonable to complete the project; and,

- c. the work on the project has not been suspended for a period in excess of one-hundred and twenty (120) days.
- 17. An Owner or Occupier of a Premises within the Village shall ensure that all Building Materials stored on a Premises are stacked or stored in an orderly manner.
- 18. Notwithstanding anything in Section 3, it shall not be an offence to store a small amount of neatly stacked materials on a Premises for basic Property maintenance.
- 19. An outdoor storage area on a Non-residential Premises shall not be permitted unless the outdoor storage area is the subject of an approved Development Permit and is visually screened to the satisfaction of a Peace Officer.

Motor Vehicles & Motor Vehicle Maintenance

- 20. No Person may conduct any repair work on Motor Vehicles, including mechanical repairs, auto body work, frame repair, collision repair, auto painting, auto detailing or modifications to the body or rebuilding of a Motor Vehicle on a Residential Premises unless:
 - a. the work is done in a garage that is capable of having the doors and windows closed;
 - b. the activity does not create Nuisance or Noise complaints from the neighbourhood;
 - c. there is no escape of offensive annoying or noxious odours, fumes or smoke from the Premises;
 - d. Motor Vehicle fluids, oil, gasoline products or other hazardous material are properly disposed of and not swept or washed onto any Highway or down storm or sanitary sewers;
 - e. all discarded Motor Vehicle parts and materials are properly stored and disposed of from the Premises; and,
 - f. no power washing of motor or power train is performed on the Premises.
- 21. The prohibition, as per Subsection 20 of this Bylaw, shall not apply to routine maintenance work done by the Owner of any Motor Vehicle who is the Owner or Occupier of the Premises.

Nuisances Escaping Property

- 22. No Owner or Occupier of a Premises within the Village shall allow a flow of water from a hose or similar device on the Premises to be directed towards

another Premises if it is likely that the water from the hose or similar device will enter another Premises.

23. No Owner or Occupier of a Premises within the Village shall allow a rainwater downspout or eaves trough to be directed towards another Premises if it is likely that the water from the downspout or eaves trough will enter another Premises.
24. An Owner or Occupier of a Premises within the Village shall direct any rainwater downspout or eaves trough on the Premises towards:
 - a. the front of the Premises;
 - b. the rear of the Premises;
 - c. a side yard which does not abut another Premises; or,
 - d. a side yard which abuts another Premises only if there is a minimum of 6 (six) metres of permeable ground between the outfall of the downspout or eaves trough and another Premises.
25. Eaves troughs and downspouts, if provided along any Structure, shall prevent the discharge of water onto Sidewalks.
26. No Owner or Occupier of a Premises within the Village shall engage in any activity that is likely to allow smoke, dust, or other airborne matter to escape the Premises which may disturb any other Person without taking reasonable precautions to ensure that the smoke, dust or other airborne matter does not escape the Premises.
27. No Owner or Occupier of a Premises within the Village shall allow an outdoor light to shine directly into the living or sleeping areas of a Structure on another Premises.
28. An outdoor light shall not constitute a violation if the Owner or Occupier of the Premises shields the light from shining directly at the living or sleeping areas of a Structure on another Premises.
29. Where an outdoor light is permitted or required pursuant to the Land Use Bylaw, a Development Permit or a similar approval, the Land Use Bylaw, Development Permit or similar approval shall take precedence over this Bylaw, and the light shall not constitute a violation.
30. An Owner or Occupier of a Premises within the Village shall ensure that articles such as papers, flyers and loose debris are collected and contained on the Premises so that they do not escape onto another Premises.
31. An Owner or Occupier of a Premises within the Village is responsible for papers and flyers on their Premises regardless of whether or not they solicited for the delivery of these papers or flyers.

32. No Person shall deposit flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a Structure, indicating that such material is not wanted.
33. No Person responsible for the operation of a business engaged in the distribution of flyers shall allow the deposit of their flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a Structure, indicating that such material is not wanted.

Excavations & Ponding Water

34. No Owner or Occupier of a Premises within the Village shall allow an excavation, drain, ditch, or other depression in the ground to become or remain a danger to public safety.
35. If, in the opinion of a Peace Officer, a water-course, pond or other surface water becomes or remains a Nuisance or poses a danger to public safety, a Peace Officer may declare the water-course, pond or other surface water a Nuisance and require the Owner or Occupier of the Premises to eliminate the Nuisance or danger by issuing a Remedial Order.

Graffiti

36. No Person shall create or apply Graffiti on or to any Premises, Structure, fence, or any other Property.
37. Every Owner or Occupier of a Premises within the Village shall ensure that Graffiti placed on their Premises is removed, painted over, or otherwise blocked from public view within seven (7) days of receiving a Remedial Order from a Peace Officer.
38. An Owner or Occupier of a Premises within the Village who fails to comply with the Remedial Order to remove Graffiti shall be liable to payment of a penalty as prescribed as the Specified Penalty attached to this Bylaw. The Owner or Occupier of the Premises is exempted from paying the Specified Penalty if the Owner or Occupier of the Premises is not responsible for placing the Graffiti on the Premises.
39. An Owner or Occupier of a Premises within the Village who fails to comply with the Remedial Order to remove Graffiti shall result in the Village taking action to remove, paint over or otherwise block from public view any Graffiti. The cost thereof shall be paid to the Village upon demand and failing to make payment may result in the amount being added to the tax roll of the Owner of the Premises as per Section 553 of the Act.

40. When determining a contravention under Subsection 36-39, the consent of the Owner or Occupier of any Premises to place Graffiti shall not be a defense under this Bylaw.

General

41. In making a determination with respect to an offence under Section 3, a Peace Officer may take into consideration any or all of the following factors:

- a. the frequency of the activity;
- b. the intensity and duration of the activity;
- c. the time of day or season;
- d. the nature of the surrounding area;
- e. the effect of the thing or activity on a complainant or complainants; and,
- f. the effect of the thing or activity on the surrounding area.

Inspection

42. A Designated Officer may inspect Property in accordance with Section 542 of the Act for the purposes of determining whether:

- a. Property is Unsightly Property under this Bylaw because its unsightly condition is detrimental to the surrounding area in accordance with s. 546 of the Act;
- b. there has been compliance with an Order issued under Section 44 of this Bylaw; or
- c. there has been compliance with an Order issued in accordance with subsection 546(1)(c) of the Act

43. The Village may apply to the Court of King's Bench to authorize inspection and enforcement in accordance with s. 543 of the Act if a person refuses to allow or interferes with entry for inspection.

Order

44. If, in the opinion of a Designated Officer, Property is detrimental to the surrounding area because of its unsightly condition, the Designated Officer may issue a written Order in accordance with subsection 546 (1) (c) of the Act to the Owner or Occupant of the Property to improve the appearance of the Property in the manner specified within a period of seven (7) days from the date of the issuance of the Order.

Remedy unsightly conditions on Property

45. If an Order has been issued under Section 44 of this Bylaw and not complied with within the time period set out in that Order, the Villager may take whatever actions or measures are necessary to:

- a. deal with the unsightly condition of the Property in accordance with s. 550 of the Act; and
- b. collect any unpaid costs or expenses incurred by the Village in accordance with the Act.
- c. the costs and expenses of the actions or measures taken by the Village are charged in addition to any penalty imposed under this Bylaw.

Review of Orders

46. A Person who receives an Order may by written notice, within seven (7) day after the Order is received, request Council to review the Order in accordance with subsection 547 1)(b) of the Act.

47. After reviewing the Order, Council may confirm, vary, substitute, or cancel the Order in accordance with subsection 547 (2) of the Act.

Appeal to Court

48. A person affected by the decision of Council under s. 46 of this Bylaw may appeal to the Court of Queen's Bench in accordance with s. 548 of the Act.

Offense and Penalties

49. Any Person who breaches any provision of this bylaw is guilty of an offence, and upon summary conviction, shall be liable to the specified penalties set out in Schedule "A" of his Bylaw, as amended by resolution of Council from time-to-time.

50. Any Person who contravenes any provision of this Bylaw is guilty of an offence and liable:

- a. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Bylaw Enforcement Office has reasonable and probable grounds to believe has Contravened any provision of this Bylaw.

- b. A Violation Tag may be issued to such Person:
 - i) personally; or
 - ii) by mailing a copy to such Person at his/her last known post office address; or
 - iii) if being issued to a corporation by serving the Violation Tag personally upon the manager, secretary, receptionist or other officer or Person apparently in charge at any premises of the corporation, or by mailing a copy to such corporation by registered mail.
- c. The Violation Tag shall state:
 - i) the name of the Person;
 - ii) the municipal or legal description of the land on or near where the offence took place;
 - iii) the offence;
 - iv) the penalty for the offence as set out in s. 12 of this Bylaw;
 - v) that the penalty shall be paid within seven (7) days of the issuance of the Violation Tag; and
 - vi) any other information as may be required by the Chief Administrative Officer or by the provisions of the Act.

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

52. Where the Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village the penalty specified on the Violation Tag.

a) Notwithstanding any provision of this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered without having first issued a Violation Tag and at the Bylaw Enforcement Officer's discretion, to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act RSA 2000, c P-34, to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

b) A Violation Ticket issued pursuant to this Bylaw shall be issued in the form and manner specified by the Provincial Offences Procedure Act RSA 2000, c P-34, and any regulations made there under.

SEVERABILITY

53. It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

REPEAL OF BYLAW

That Bylaw No. 450/11 and amendments thereto are hereby repealed.

EFFECTIVE DATE

This Bylaw shall take effect at the date of final passing thereof.

Read a first time this 23rd day of October 2023

Read a second time this 20th day of November 2023

Read a third time and final time this 20th day of November 2023.

Deputy Mayor
Deborah Reid-Mickler

Chief Administrative Officer
Yvonne Cosh

SCHEDULE "A"

BYLAW NO. 515/23

Penalties

Offence

Section 49

First Offence by that Person

\$ 250.00

Second Offence by that Person

\$ 500.00