

The Town of Rimbey Nuisance Bylaw

Bylaw 859/10

A BYLAW OF THE TOWN OF RIMBEY IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING, CONTROLLING, AND ABATING NUISANCES AND REMEDYING DANGEROUS AND UNSIGHTLY PREMISES.

WHEREAS, Pursuant to the provisions of the *Municipal Government Act*, Revised Statutes of Alberta 2000, Chapter M-26 and amendments thereto, the Council may pass Bylaws respecting nuisances and dangerous and unsightly premises;

NOW THEREFORE, the Council of The Town of Rimbey, duly assembled enacts as follows:

PART I - BYLAW TITLE

This Bylaw may be cited as the "Nuisance Bylaw".

PART II - DEFINITIONS

- 1) In this Bylaw unless the context otherwise requires:
 - a) "boulevard" means that part of a highway that;
 - (i) is not a roadway; and
 - (ii) is that part of the sidewalk that is not especially adapted to the use or ordinarily used by pedestrians.
 - b) "C.A.O." means the Chief Administrative Officer of the Town of Rimbey.
 - c) "Development Authority" means a person appointed as a Development Authority pursuant to the provisions of Town of Rimbey Bylaw No. 762/04, being the Land Use Bylaw, and amendments thereto.
 - d) "dwelling" means a permanent structure designed or manufactured primarily for the occupation or living quarters for people and includes mobile homes.
 - e) "explosive substance" means and includes;
 - (i) anything intended to be used to make an explosive substance;
 - (ii) anything or any part thereof, used or intended to be used, or adapted to cause, or to aid in causing an explosion in or with an explosive substance, and;
 - (iii) an incendiary grenade, fire bomb, Molotov cocktail, or similar incendiary substance or device and a delaying mechanism or other thing intended for

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use in connection with such a substance or device.

- f) “non-operational vehicle” means any motor vehicle or part of a motor vehicle which is unlicensed, or uninsured, or derelict, or not in a state to legally travel on a highway.
- g) “nuisance” means any 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 forgoing, includes the following:
 - (i) grass and/or weeds in excess of twenty (20) centimeters;
 - (ii) the failure to destroy restricted weeds, control noxious weeds, or prevent the spread or scattering of nuisance weeds pursuant to the Weed Control Act S.A. 2008, c.W-5.1 and amendments thereto;
 - (iii) the causing of opaque, dense, toxic or noxious smoke and permitting such smoke to be emitted to the atmosphere, as determined by the Peace Officer, unless specifically authorized by Council;
 - (iv) the burning of anything other than preservative or chemical free wood or wood products within an acceptable fire pit or fireplace meeting the standards of the Town of Rimbey Land Use Bylaw 762/04 and amendments thereto.
 - (v) the generation of excessive dust and permitting such dust to escape from the property;
 - (vi) the emission of an unpleasant odor and permitting such odor to escape from the property;
 - (vii) the use of any pesticide or herbicide which has significant detrimental or environmental effects on surrounding areas;
 - (viii) the failure to control or eliminate insect pests harmful to the growth and development of any trees, shrubs, vegetable or plant life;

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- (ix) the storage or accumulation of dilapidated vehicles or the storage of vehicles contrary to the Land Use Bylaw;
 - (x) the storage or accumulation of or failure to dispose of discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, cardboard, tires, motor vehicle parts or scrap building materials;
 - (xi) the failure to dispose of or to prevent the spread or scattering of any rubbish or garbage accumulated upon any property, including but not limited to;
 - any rubbish, refuse, garbage, paper, packaging, containers, bottles, cans,
 - rags, clothing, petroleum products, manure, human or animal excrement,
 - sewage or the whole part of an animal carcass; or
 - the whole or a part of any article, raw or processed material, vehicle or other machinery that is disposed of;
 - animal or vegetable matter, including materials resulting from the handling, preparation, cooking, consumption and storage of food;
 - building waste;
 - garden waste;
 - anything that is designated as waste in the regulations under the Environmental Protection & Enhancement Act R.S.A. 2000, c. E-12 and amendments thereto.
 - (xii) the posting or exhibiting of posters, signs, billboards, placards, writings or pictures on any fence, wall, or property, where the same are accumulated and become in a dilapidated condition.
 - (xiii) the failure to remove graffiti off any buildings, structures, fences etc. within a period of at least two (2) weeks, or a longer period as determined by the Peace Officer.
- h) "Peace Officer" means any member of the RCMP, a Peace Officer and a Bylaw Enforcement Officer.

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- i) “person” includes any owner, agent, lessee or occupier including a corporation and their heirs, executors, administrators or other legal representative of a person or corporation.
- j) “premises” means and includes all land, buildings, excavations, structures and appurtenances thereto.
- k) “recreational vehicle” means any vehicle, trailer or anything designed to be carried on a vehicle or trailer that is designed for temporary habitation of people commonly referred to as a holiday trailer, motor home, camper or tent trailer.
- l) “sign” means anything defined as a sign pursuant to Land Use Bylaw No. 762/04 and amendments thereto.
- m) “Town” means the Town of Rimbey.
- n) “unsightly condition” means:
 - (i) in respect of a structure, a structure whose exterior, relative to the adjacent land and land use, shows signs of significant physical deterioration, and
 - (ii) in respect of land, land that shows signs, relative to the adjacent land and land use, of serious disregard for general maintenance and upkeep.
- o) “weapon” means a firearm or any other device that propels a projectile by means of an explosion, spring, air, gas, string, wire or elastic material and any combination of these things.

PART III - OFFENCES

- 2) No person being the owner, agent, lessee or occupier of any premises or dwelling within the Town of Rimbey shall permit such premises or dwelling or the activities on such place to be or become a nuisance or be in an unsightly condition.
- 3) No person being the owner, agent, lessee or occupier of any premises or dwelling within the Town of Rimbey shall permit the grass, weeds, or other vegetation on a boulevard adjacent to the subject property to become a nuisance by growing uncontrolled. All property owners or occupants are charged with the responsibility of maintaining the boulevard adjacent to, abutting, or flanking their property.

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- 4) No person shall keep a recreational vehicle, in a residential area, in the front yard or in the flanking yard on a corner lot, for a period longer than is reasonably necessary to load or unload the vehicle. The foregoing does not apply between the months of April and October inclusive if;
 - a) there is no vehicle access to the rear yard of the lot, and;
 - b) the vehicle will not overhang the sidewalk or road or otherwise create a traffic hazard, and;
 - c) the parking of the vehicle will not, in the Development Authority's opinion, reduce the value or enjoyment of adjacent properties.
- 5) No person shall place an unauthorized sign or a sign contrary to the Land Use Bylaw on any public or private lands.

PART IV - NOISE

- 6) No person shall make, continue or cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the Town of Rimbey.
- 7) No person shall allow property belonging to him under his control to be used so that there originates from the property any loud unnecessary or unusual noise which disturbs the comfort or repose of other persons in the vicinity of such property or generally within the limits of the Town of Rimbey.
- 8) A loud noise, an unnecessary noise, an unusual noise or a noise which disturbs, injures, or endangers the comfort, repose, health, peace or safety of others is a question of fact for a Court which hears a prosecution of an offence against Section 6 or 7 of this Bylaw.
- 9) In determining if a sound is reasonably likely to disturb the peace of others the following criteria may be considered:
 - a) type, volume and duration of the sound;
 - b) time of day and day of week;
 - c) nature and use of the surrounding area; and
 - d) any other relevant factor.

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- 10) No person shall operate or allow to be operated any sound amplifying equipment from any residence, business premises, vehicle or in any park or other public place so as to unduly disturb residents of the Town.

The above shall not apply to any person or group who has obtained consent or permission from the Council of the Town or from the C.A.O.

- 11) No person shall carry on construction of any kind that can be heard beyond the boundary of the construction site between the hours of 10:00 P.M. (2200 hrs.) and 7:30 A.M. (0730 hrs.).
- 12) No person shall operate any equipment, machinery or mechanical devices or any other tool or device of a noisy nature in a residential area between the hours of 10:00 P.M. (2200 hrs.) and 7:30 A.M. (0730 hrs.).
- 13) Notwithstanding sections 11 and 12 a Peace Officer, C.A.O. or Town Council may allow construction to be carried on, subject to any restrictions or conditions that they may impose.
- 14) No person shall cause or permit or undertake any activity upon any Town property, which constitutes a nuisance.
- 15) No person who occupies any premises shall keep any kind of animal in excessive numbers so as to cause a health concern, damage to other properties or in the opinion of the Development Authority the keeping of the animals in excessive numbers will reduce the value or enjoyment of adjacent properties.
- a) A Provincial Court Judge or Justice of the Peace, in addition to the penalties provided in this Bylaw, may, if he considers the keeping of the excessive number of animals to be serious considering health and property issues, direct or order the owner of the animals to have the animals removed from the Town.

PART V - WEAPONS AND EXPLOSIVES

- 16) No person shall discharge or use any dangerous weapon, devices, firearm or explosive substance within the corporate limits of the Town of Rimbey.
- 17) No person shall allow property belonging to him or under his control to be used so that there originates from his property the setting off or throwing of any fireball, firecracker, or other fireworks or explosive device within the corporate limits of the Town of Rimbey;

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- a) Excepting where special permission is obtained in writing from the CAO outlining any conditions related to the permission for discharge as deemed necessary by Council, notice of which will be transmitted to the Town Peace Officer or the Royal Canadian Mounted Police.

PART VI - SNOW, ICE, DIRT, DEBRIS

- 18) All persons within the Town of Rimbey owning, controlling, or occupying property that adjoins any sidewalk shall remove or cause to be removed and cleared away all snow, ice, dirt, debris or other material from any sidewalk adapted to the use of pedestrians. Such removal shall be completed within 72 hours from the time that the snow, ice, dirt, debris, or other material was formed or deposited there.
 - a) Any person who fails to comply with this section is guilty of an offence and may be issued a violation ticket by a Peace Officer in an amount specified in this Bylaw.
 - b) In default of any person complying with subsection a) above, and in addition to any other remedy available to the Town of Rimbey for noncompliance with this Bylaw, the Town may arrange to have the sidewalk cleared and any cost thereof shall be paid to the Town upon demand and failing payment, such cost shall be charged against the property as a special assessment.
- 19) No person shall remove snow, ice, dirt, debris or other material from a sidewalk or private property by causing it to be placed on any other portion of a highway or on any private property other than their own except to the extent that removal of the snow or ice to private property is impractical.
- 20) No person shall place or permit to be placed any snow, ice, dirt, debris or other material removed from private property on to a highway or other public place in the Town of Rimbey.

PART VII - ENFORCEMENT

- 21) A person who contravenes this Bylaw is guilty of an offence.
- 22) In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.

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- 23) For the purposes of this Bylaw, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred in the course of the employee's employment with the person, or in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.
- 24)
- a) When a corporation commits an offence under this Bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
 - b) if a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.
- 25) A Peace Officer is hereby authorized to carry out an inspection to determine compliance with any provision of this Bylaw.
- 26) The C.A.O. of the Town or a Peace Officer may, at their discretion, issue a letter or notice to anyone who is in contravention of any section of this Bylaw directing the said person to take any action required so as not to be in breach of the section. The notice or letter may provide a time frame for the person to complete the action.
- 27)
- a) Any person who does not comply with a notice or letter is subject to a fine in the amount of \$200.00. A person who commits a second or subsequent offence within a one-year period shall be subject to a fine of \$400.00.
 - b) Notwithstanding 27) a), A Provincial Court Judge or Justice of the Peace may set a penalty higher than the specified penalty in this Bylaw, but not to exceed \$2,500.00.
- 28) The Town may perform the task or action that any person has not complied with at that person's expense. If the person fails to pay the Town then the amount owing may be added to the person's or owner's taxes.

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- 29) A Peace Officer is hereby authorized and empowered to issue a violation ticket, pursuant to the Provincial Offences Procedure Act, to any person who the Peace Officer believes on reasonable and probable grounds has contravened any section of this Bylaw.
- 30) Any person to whom a violation ticket has been issued may make the voluntary payment, if one is offered, by delivering the violation ticket as per instructions on the violation ticket along with an amount equal to that specified for the offence as set out in this Bylaw.
- 31) A Peace Officer who believes that the breach of any section in this Bylaw is of such a serious nature he may issue an offender with a violation ticket compelling the offender's appearance in court.
- 32) Notwithstanding the provisions of this Bylaw, any person who has been issued a violation ticket pursuant to any section of this Bylaw may exercise his right to defend any charge of committing a contravention of any provision of this Bylaw.
- 33) A person issued a violation ticket for an offence shall be deemed sufficiently and properly served:
 - a) if served personally on the accused;
 - b) if mailed by registered mail to the address of the person who has contravened this Bylaw.

PART VIII - SEVERABILITY

- 34) Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.

PART IX - GENERAL

- 35) Whenever the singular and masculine gender is used in this Bylaw, the same shall include the plural, feminine and neuter gender whenever the context so requires.

PART X - REPEAL

- 36) Bylaws 470/84, 548/88, 627/95, and 736/02 are hereby repealed.

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PART XI - EFFECTIVE DATE

AND FURTHER THAT this Bylaw shall take effect on the date of third and final reading.

READ a first time this _____ day of _____, 2010.

READ a second time this _____ day of _____, 2010.

READ a third and final time this _____ day of _____, 2010.

MAYOR

CHIEF ADMINISTRATIVE OFFICER