

# STARLAND COUNTY BYLAW 1092

BEING A BYLAW OF STARLAND COUNTY, IN THE PROVINCE OF ALBERTA, TO REGULATE, CONTROL AND ABATE NUISANCES, INCLUDING DANGEROUS AND UNSIGHTLY PREMISES

**WHEREAS**, Starland County has the authority pursuant to section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time, to pass bylaws respecting nuisances generally including unsightly premises;

**AND WHEREAS**, the Council of Starland County deems it expedient and in the public interest to pass a bylaw to establish and enforce minimum standards relating to the state of repair and maintenance of property and to regulate, control and abate nuisances, including unsightly premises, within the municipal boundaries of Starland County;

**NOW THEREFORE** the Council of Starland County, in the Province of Alberta, duly assembled, hereby enacts as follows:

## Part 1 – Short Title

1.1 The Bylaw may be cited as the Starland County “Nuisance Abatement Bylaw”.

## Part 2 - Definitions

2.1 In this Bylaw

- (a) “Act” shall mean the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time;
- (b) “Adjacent” means land that is contiguous to the land that is the subject of a complaint and includes land or a portion of land that would be contiguous if not for a public road, railway, right-of-way, public utility lot, reserve lot, river or stream;
- (c) “Abandoned Equipment” means equipment or machinery, which has been rendered inoperative by reason of its disassembly, damage, age or mechanical condition, or any household appliance stored outside of a residence or other structure regardless of whether or not it is in an inoperative condition;
- (d) “Abandoned Vehicle” means the whole or any part of any motor vehicle or farm implement that is either:
  - (i) in a rusted, wrecked, partially wrecked, dismantled, partly dismantled, or inoperative condition, and is not located within a structure or located on Premises such that it can be concealed from view; or
  - (ii) includes all of the following:

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- I. no current license plate attached to the vehicle;
  - II. no registration certificate issued for the current year;
  - III. is inoperative by reason of missing or disassembled parts or equipment; and
  - IV. is not located within a structure or located on Premises such that it can be concealed from view.
- (e) “Committee” means a council committee referred to as the Nuisance Abatement Committee;
- (f) “County” means Starland County, in the Province of Alberta;
- (g) “County Manager” means the Chief Administrative Officer (C.A.O) of Starland County.
- (h) “Council” means the municipal council of Starland County;
- (i) “Nuisance” means a condition, or the use of, or an emission from property which, in the opinion of a Peace Officer, constitutes an unreasonable interference with the use and enjoyment of other private or public property, and includes, without limiting the foregoing, noise, or an Unsightly Premises;
- (j) “Occupant” means any Person other than the Owner who is in possession of the Premises, including, but not limited to, a licensee, tenant or agent of the Owner;
- (k) “Owner” means:
- (i) any Person registered as the Owner of Premises under the *Land Titles Act*;
  - (ii) a Person who is recorded as the Owner of Premises on the Assessment Roll of the County;
  - (iii) a Person who has become the beneficial Owner of the Premises, including by entering into a Purchase and Sale Agreement, whether they have purchased or otherwise acquired directly from the Owner or from another Purchasers, and who has not yet become the registered Owner thereof;
  - (iv) 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;
  - (v) a Person in control of Premises under construction; or
  - (vi) a Person who is the Occupant of the Premises under a lease, license or Permit.
- (l) “Peace Officer” means a Bylaw Enforcement Officer, Community Peace Officer as appointed and authorized by the County or Member of the Royal Canadian Mounted Police.
- (m) “Person” means a corporation, partnership, or individual, and the heirs, executors, administrators or other legal representative of an individual;
- (n) “Premises” means and includes land, buildings, excavations, stockpiles, structures and appurtenances, or any personal property located thereupon, within the municipal boundaries of the County;

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- (o) "Provincial Offences Procedure Act" means the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time;
- (p) "Refuse" means
  - i. all solid and liquid waste, and debris, junk or effluent belonging to or associated with a house or household or any industry, trade or business;
  - ii. vehicle parts or accessories;
  - iii. furniture, appliances, machinery or parts thereof;
  - iv. animal excrement; and
  - v. any unused or unusable material that by reason of its state, condition or excessive accumulation, in the opinion of a Designated Officer:
    - (i) appears to have been discarded or abandoned; or
    - (ii) appears to be useless or of no particular value; or
    - (iii) appears to be used up or worn out in whole or in part.
- (q) "Unsightly Condition" means any Premises, whether land, buildings, improvements to lands and buildings, or any other combination of the above, located within the County that, in the opinion of a Designated Officer, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding Premises in reasonable proximity to the Unsightly Premises, or is otherwise detrimental to the surrounding area or in an Unsightly condition as defined by the *Municipal Government Act*;
- (r) "Violation Ticket" means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*.

**Part 3 – General Prohibitions**

- 3.1 An Owner or Occupant of Premises shall not cause or allow that Premises or the use of that Premises to constitute a Nuisance.
- 3.2 An Owner or Occupant of Premises shall not cause or allow that Premises to become a danger to public safety or an Unsightly Premise.
- 3.3 No Person shall cause, permit, or allow Refuse, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or to be stored upon Premises owned or occupied by him.
- 3.4 No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to accumulate in any building or structure within the County, except in appropriate containers provided for the temporary storage of Refuse or other waste materials for pick-up and disposal at a sanitary landfill, recycling centre or other waste management facility, or except as otherwise permitted pursuant to a statute, or this, or another bylaw.
- 3.5 Conditions constituting a Nuisance or Unsightly Condition may include, but are not be limited to:

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- a) the accumulation of Refuse or other waste products on the Premises;
- b) uncut grass or the presence of weeds, which in the opinion of the Peace Officer or Designated Officer, are excessive or which demonstrate neglect by the Owner or Occupant of the Premises, which Premises is to include the land at the front of the Premises to the centre of the roadway and that land at the back of the Premises to the centre of the alley, if applicable;
- c) the accumulation of animal material, yard material, ashes or scrap building material;
- d) the presence or accumulation of an Abandoned Vehicle or Vehicles, Abandoned Equipment or household appliances;
- e) the presence or accumulation of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
- f) the presence of shrubs, trees, weeds or other vegetation which, as a result of its location on the Premises has caused or is causing damage to adjacent properties, or which is obstructing a sidewalk, highway or public place, including the obstruction of sight lines desirable for the safe operation of motor vehicles on a highway within the County;
- g) the flow of water from a hose, eaves trough, or downspout or similar device on the Premises positioned such that it is likely that the water from the hose, eaves trough, downspout or similar device will enter the Adjacent Premises or property;
- h) the open or exposed storage on the Premises of any industrial fluid, including, but not limited to, engine oil, brake fluid, or antifreeze;
- i) the accumulation of building materials, whether new or used unless the Owner or Occupant can establish that a construction or renovation undertaking is being carried out on the Premises and that the undertaking has begun or the beginning of the work is imminent; and that the material is stacked or stored in an orderly manner;
- j) dense or opaque smoke emitted into the atmosphere for more than SIX (6) minutes per hour or dense or opaque dust emitted into the atmosphere;
- k) the failure to dispose of Refuse or other waste products accumulating in temporary containers upon the Premises;
- l) the failure to keep a Premises in a Reasonable State of Repair, including a lack of repair or maintenance of buildings, structures or Premises, which includes but is 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;

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- iii. significant fading, chipping, peeling or absence of painted areas of buildings, structures or improvements on the Premises; or
- iv. conditions that may create a danger to public safety, in the opinion of a Peace Officer.

m) any form of scrap, litter, trash, or waste of any kind.

3.6 In determining whether Premises are a Nuisance or constitute an Unsightly Condition a Peace Officer may have regard to the use and location of the Premises.

**Part 4 – Enforcement**

4.1 For the purposes of inspection or enforcement under this Bylaw, a Peace Officer is a Designated Officer for the County.

4.2 A Designated Officer may, for the purposes of ensuring that the provisions of his Bylaw are being complied with, enter upon any Premises or into any structure, in accordance with section 542 of the *Act*, in order to carry out an inspection, enforcement or other action required or authorized by this bylaw, the *Act*, or any other statute.

4.3 Before conducting an inspection pursuant to section 4.2, a Designated Officer shall provide the Owner or Occupant of the Premises with reasonable notice as required by the *Act*. For the purposes of this Bylaw, FORTY EIGHT (48) HOURS is deemed to be reasonable notice.

4.4 Where a contravention of this Bylaw has occurred or is occurring, a Designated Officer may issue an Order to the Owner, Occupant, or Person responsible for the contravention, or any or all of them, pursuant to section 545 of the *Act*.

4.5 An Order issued by a Designated Officer under section 4.4 may, in the case of a Nuisance or Unsightly Premises:

(a) direct the Person to whom the Order is issued to stop doing something, or change the way in which the Person is doing that thing;

(b) direct the Person to take any action or measure necessary to remedy the contravention of this Bylaw, including but not limited to the cessation of an activity, the cutting or removal of trees, shrubs and foliage, and the removal or demolition of the structure or improvement that is in contravention of this Bylaw and, if necessary, to prevent the reoccurrence of the contravention;

(c) state a time period within which the Person responsible must comply with directions stated in the Order;

(d) state that if the Person does not comply with the directions provided within the Order within the time period specified, that the County may take any action or measure reasonable, with such expenses being recoverable against the Person responsible, in accordance with the provisions of the *Act*;

(e) notify the Person responsible of the right to apply by written notice for a review of the Order by the Committee, and any fee required for such an application, as set out in Schedule "A".

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- 4.6 Any expenses or costs of any action or measure taken by the County pursuant to this Bylaw are an amount owing to the County by the Owner, Occupant or any other Person responsible for the contravention, or any or all of them.
- 4.7 If the County sells all or a part of a structure or improvement, or the contents of a structure or improvement, that have been removed pursuant to this Bylaw, the proceeds of the sale must be used to pay the expenses and costs incurred by the County in the enforcement of the Order issued, and any excess proceeds must be paid to the Owner, Occupant or Person responsible for the contravention, if entitled to them.
- 4.8 The expenses and costs incurred by the County in the enforcement of this Bylaw may be collected as a civil debt or added to the tax roll for the Premises pursuant to the *Act*.
- 4.9 The County may register a caveat pursuant to the *Land Titles Act* and the *Act* in respect to any Order issued under this Bylaw, against the Certificate of Title for the Premises that is the subject of the Order.
- 4.10 If a caveat is registered pursuant to section 4.9 of this Bylaw, the County must discharge the caveat when the Order has been complied with, or when the County has performed the actions or measures necessary to remedy the contravention as stated in the Order.
- 4.11 An Order issued pursuant to this Bylaw is deemed to have served on the Person whom it is addressed when the Order has been:
  - (a) in the case of an individual, delivered personally to the individual, or left for the individual at his or her residence with a Person on the Premises who appears to be at least eighteen (18) years of age; or
  - (b) upon confirmation of receipt of the Order by the Person to whom it is addressed by registered mail; or
  - (c) in the case of a partnership or corporation, by registered mail or personal delivery to either the registered office or business address of the partnership or corporation; or
  - (d) in the event that the County is unsuccessful in its attempts to serve the Order pursuant to subsections (a), (b), or (c) above, a Designated Officer may post a copy of the Order in a conspicuous place on the Premises referred to in the Order, when the Designated Officer has reason to believe that the Person to whom the Order is addressed is evading service, and that there is no other reasonable means of service available.

**Part 5 – Nuisance Complaint Process**

- 5.1 A Peace Officer may investigate any complaint received in relation to any Nuisance or Unsightly Premises. Such investigation may include but is not limited to a drive by inspection of the Premises or an inspection of the Premises pursuant to section 542 of the *Act*.
- 5.2 A Peace Officer, upon determining that a Premise is in a Nuisance or Unsightly Premises, may issue a warning or an Order to the Owner, Occupant, Person responsible for the contravention or any or all of them.

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**Part 6 – Review**

- 6.1 A Person to whom an Order is issued pursuant to section 4.4 may request a review of the Order by written notice to the Committee within FOURTEEN (14) days of the date on which the Order is received by that Person. Upon review of the order, the Committee may confirm, vary, substitute or cancel the Order.
- 6.2 If an Order is to be reviewed by the Committee under section 6.1, the Committee shall:
  - (a) set a time and place to hear the review; and
  - (b) notify the Person to whom the Order was issued of the time and place of the review.
- 6.3 The Committee hearing an appeal under section 6.1 is not required to hear from any Person other than a Person notified pursuant to section 6.2.
- 6.4 Any Order confirmed, varied or substituted by the Committee under this part shall require the Person to whom the Order is issued to remedy the contravention within a specified period of time.

**Part 7 – Nuisance Abatement Committee**

- 7.1 The Nuisance Abatement Committee of Starland County is hereby established.
- 7.2 The Nuisance Abatement Committee shall be a council committee and all members shall be appointed by Council.
- 7.3 The Nuisance Abatement Committee shall consist of at least THREE (3) members and no more than TEN (10) members.
- 7.4 No more than FIVE (5) members of the Nuisance Abatement Committee will serve at any one review.
- 7.5 Council may remove a member of the Nuisance Abatement Committee at any time.
- 7.6 A member of the Nuisance Abatement Committee shall be appointed for a term of THREE (3) years.
- 7.7 If at any time, through resignation, death or otherwise, a vacancy occurs on the Nuisance Abatement Committee, Council shall appoint a person to fill the vacancy for the balance of the term.
- 7.8 The Nuisance Abatement Committee may review:
  - a. Enforcement Orders issued by the County pursuant to this Bylaw and section 545 of the *Act*;
  - b. Stop Orders issued by the County pursuant to section 546 of the *Act*.
- 7.9 A quorum of the Nuisance Abatement Committee shall be THREE (3) members of the Nuisance Abatement Committee.

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- 7.10 The Nuisance Abatement Committee may establish written rules of procedure as necessary for the conduct of its meeting, and its business that are consistent with this bylaw, the *Act*, or other bylaw which may come into effect from time to time. In the event, the Nuisance Abatement Committee does not establish such rules of procedure the Nuisance Abatement Committee shall follow the same rules of procedure and/or protocol as is followed by the County's Subdivision and Development Appeal Board or the Council of Starland County.

### **Part 8 – Appeal to the Court of Queen's Bench**

- 8.0 Any Person affected by the decision of the Nuisance Abatement Committee under section 6.1 may appeal to the Court of Queen's Bench of Alberta pursuant to section 548 of the *Act*.

### **Part 9 – Offences**

- 9.1 Regardless of whether an Order has been issued pursuant to this Bylaw, any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a penalty as set out in Schedule "A" herein.
- 9.2 Notwithstanding section 9.1 of this Bylaw, any Person who commits a second, third or subsequent offence under this Bylaw within one (1) year of committing the first offence, is liable to an increased penalty as set out in Schedule "A" herein.
- 9.3 Under no circumstances shall any Person contravening any provision of this Bylaw be subject to a penalty of imprisonment.

### **Part 10 – Violation Tickets**

- 10.1 A Peace Officer is hereby authorized and empowered to issue a Violation Ticket to any Person to whom the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw;
- 10.2 A Violation Ticket issued with respect to a violation of this Bylaw may be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
- 10.3 The Person to whom the Violation Ticket has been issued may plead guilty by making a voluntary payment in respect of the summons by delivering to the Provincial Court, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided by the Bylaw;
- 10.4 Where a Clerk of the Court records in the court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and imposition of a fine in the amount of the specified penalty.

### **Section 11 – Severability and Coming into Force**

- 11.1 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of the Bylaw shall be maintained.

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11.2 The Bylaw shall come into force upon receipt of its third and final reading.

First Reading on motion of Councillor Stanger, this 28<sup>th</sup> day of May, A.D., 2009.

Second Reading on motion of Councillor Hebert, this 28<sup>th</sup>, day of May, A.D., 2009.

Third and final reading on motion of Councillor Stanger, this 28<sup>th</sup> day of May, A.D., 2009

**Done and finally passed in Council, duly assembled, this 28<sup>th</sup> day of May, A.D., 2009.**



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Reeve: J. Barrie Hoover



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Chief Administrative Officer  
Ross D. Rawlusk

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**“Schedule A”**

**FEE SCHEDULE**

Any appeal made pursuant to section 6.1 shall be accompanied by a fee of \$300.00, which shall be refunded if the applicant’s appeal is successful.

**SPECIFIED PENALTIES**

<b>OFFENCE:</b>	<b>SPECIFIED PENALTY</b>
Contravention of any Provision of this Bylaw	\$350.00
Second Offence within one year	\$700.00
Third or subsequent Offence within one year	\$1,500.00