



# BYLAW

Bylaw Number: **878/18**

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## COMMUNITY STANDARDS BYLAW

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**WHEREAS** it is deemed desirable and equitable to enact a Bylaw to regulate and control noise, nuisance, unsightly premises, and public disturbances; and

**WHEREAS** it is provided in and by the Municipal Government Act, being Chapter M-26, 2000, Section 7, provides the authority for a municipal council to pass Bylaws regulating the safety, health, and welfare of people and the protection of people and property and nuisances, including unsightly property;

**NOW THEREFORE** the Council of the Town of Bassano in the Province of Alberta, duly assembled, enact as follows:

### **1. DEFINITIONS**

This Bylaw may be cited as the “Community Standards Bylaw” of the Town of Bassano.

- 1.1 “Act” means the *Municipal Government Act*, R.S.A. 2000, C-26 as may be amended, repealed and replaced from time to time.
- 1.2 “Chief Administrative Officer” or “CAO” means the Chief Administrative Officer of the Town of Bassano as appointed by Council.
- 1.3 “Council” means the Council of the Town of Bassano
- 1.4 “Graffiti” means the unauthorized writing, drawing, or posting on a publicly visible surface containing material, words or images that may be considered offensive by members of the public. “Graffiti” does NOT include the placement of non-offensive artwork on a property with the consent of the property owner.
- 1.5 “Peace Officer” means a member of the Royal Canadian Mounted Police, a Bylaw Officer appointed by the Town of Bassano, or a Community Peace Officer appointed by the Solicitor General of Alberta.

### **2. GENERAL PROVISIONS**

- 2.1 Nothing in this Bylaw relieves a person from complying with any other federal or provincial law or regulation, or any other municipal bylaw, or any requirements of any lawful permit, order or license.

- 2.2 Every provision of this bylaw is separate and independent from all other provisions and, if any provision of this Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain in force and effect.
- 2.3 Nothing in this Bylaw forces or compels the Town of Bassano, its employees or agents, to enforce every breach of this Bylaw. The Town may take into consideration any practical concerns, including but not limited to the nature and extent of the breach or contravention, any financial or budgetary considerations, or the availability of personnel or human resources.

### **3. NUISANCE AND UNSIGHTLY PROPERTIES**

- 3.1 A “nuisance” or “unsightly” property for the purpose of this Bylaw includes any use, activity, or general lack of maintenance and repair which is offensive to any person, or may have a negative effect on the quality of life, use, or enjoyment of a person of their own property, or have a negative effect on property values in the area. Generally, a nuisance or unsightly property is characterized by a general lack of care, maintenance or upkeep of a property.
- 3.2 Without limiting the definition of an unsightly or nuisance property in Section 3.1, the following are examples of behaviors, conditions, and/or situations which are considered “unsightly” or “nuisance” properties:
- 3.2.1 Allowing the storage and/or accumulation of:
- (a) any material which creates or emanates unpleasant odours;
  - (b) any material likely to attract pests, insects, or wild animals;
  - (c) animal remains, parts of animal remains, or animal feces;
  - (d) open or exposed industrial fluids, including engine oils, lubricants, antifreeze;
  - (e) building materials, whether new or used, except during the construction of an approved development where a development permit has been granted by the Town, or where a development permit is not required and the materials are placed in an orderly manner on the premises;
  - (f) loose or bagged garbage and refuse;
  - (g) bottles, cans, boxes, or packing materials;
  - (h) household furniture or other household goods;
  - (i) automobile parts;
  - (j) parts of disassembled machinery, equipment, or appliances;
  - (k) yard waste, including grass, tree and hedge cuttings, but excluding the contents of a composting pile;
  - (l) household appliances, including fridges and freezers, unless the appliance is in good working order, always locked, and screened from view so that the appliance is not visible to a person viewing from outside the property;

- (m) all or part of inoperable, immobile, unregistered and/or unlicensed automobiles, except as part of a permitted salvage yard, auto dealership or other business where unregistered or unlicensed vehicles is an integral part of a legally operating business; or
    - (n) stagnant water remaining on the property and becoming a breeding location for mosquitos or other pests;
  - 3.2.2 Allowing grass, trees, shrubs or other living plants to grow uncontrolled, unmaintained and/or excessively;
  - 3.2.3 Allowing trees or shrubs to grow in a manner which interferes with utilities, road signs, or the safe movement of vehicle and pedestrian traffic;
  - 3.2.4 Failing to destroy noxious weeds, as defined in the *Weed Control Act*;
  - 3.2.5 Failing to destroy, eradicate or control blight or disease on living plants, trees, shrubs or other vegetation;
  - 3.2.6 Allowing the release from the property to any surrounding property, including public spaces, of:
    - (a) dense or opaque smoke, except from the opening of a flue, stack, chimney, or as otherwise authorized by Council;
    - (b) dust;
    - (c) garbage, refuse or other waste; or
    - (d) any chemical, substance, compound or product for any purpose with disregard to the manufacturer's recommendations for use, including any safety precautions, that results in adverse effects to the environment, another property, or another person;

without taking reasonable precautions and/or preventative measures to ensure that the substance(s) in question escape the premises;
  - 3.2.7 Failing to maintain a principal or accessory building, structure, or fence to a point where it deteriorates, becomes a safety hazard, or otherwise becomes unsightly to other people; or
  - 3.2.8 Failing to secure a hole, excavation, ditch or other depression so that it does not present a safety hazard to other people.
- 3.3 No person shall cause or allow a property they own or occupy within the Town to become or remain unsightly, unsafe, or a nuisance either by doing or failing to do any activity upon the Property.

- 3.4 In determining whether a property is in an unsightly or nuisance condition, a Peace Officer may consider the nature and character of adjacent or surrounding properties and whether the subject property is maintained in a similar character to its surroundings.

#### **4. NOISE**

- 4.1 "Noise" for the purposes of this Bylaw includes the emanation of any sound that annoys or disturbs the peace of any other person.
- 4.2 In determining whether noise is likely to annoy or disturb the peace of another person, a Peace Officer may consider:
- 4.2.1 the type, volume and duration of the noise;
  - 4.2.2 the time of day and day of the week;
  - 4.2.3 nature and use of the surrounding area;
  - 4.2.4 if the noise is excessive, unnecessary, or unusual
- 4.3 No person shall cause or allow noise to emanate from a property they own or occupy that annoys or disturbs the peace of another person between the hours of 11:00 p.m. and 7:00 a.m. without the written permission of the CAO.
- 4.4 Nothing in this Bylaw is intended to prevent the operation of an industrial activity on a property which has received an approved development permit or is otherwise a permitted use not requiring a development permit.
- 4.5 In the carrying out of an approved industrial activity, the person operating or carrying on that activity may not make more noise than is necessary in the normal method(s) of performing or carrying out that activity.
- 4.6 The provisions of Section 4 of this Bylaw do not apply to the Town of Bassano, its employees, contractors, or agents, when performing authorized work on behalf of the Town.

#### **5. INOPERABLE MOTOR VEHICLES**

- 5.1 No person may conduct any repair work, including mechanical repairs, auto body work, frame or collision repair, painting, modifying, or rebuilding of a motor vehicle in any residential zoned land use district.
- 5.2 Section 5.1 does not apply to the routine maintenance of an operable, licensed and/or registered motor vehicle owned and registered to the owner or occupier of a property, provided that the activity does not create a nuisance or unsightly condition on the property.
- 5.3 Notwithstanding any other provision of this Bylaw, a person may store one (1) inoperable, unlicensed, or unregistered vehicle on a residential property for:
- 5.3.1 conducting the private sale of a motor vehicle legally owned by the owner or occupier of a property; or
  - 5.3.2 the non-commercial restoration of a motor vehicle;

providing that the activity does not create a nuisance or unsightly condition on the property.

- 5.4 Persons engaging in the non-commercial restoration of a motor vehicle shall ensure that the vehicle, and any associated equipment, materials, parts, tools or any other items are secured in an enclosed area, screened from view of the public.

## **6. GRAFFITI**

- 6.1 The owner or occupier of a property shall ensure graffiti placed on their property is removed, painted over, or screened from public view within 10 days of the placement of the graffiti.
- 6.2 In prosecuting an offense under Section 6.1, the consent of the owner to place graffiti on a property they own or occupy shall not be a valid defense under this Bylaw.

## **7. PROPERTY ADDRESSING**

- 7.1 The owner or occupier of a property shall display the civic address number assigned to the property at a location plainly visible from the street in front of the property.

## **8. ENFORCEMENT**

- 8.1 A Peace Officer may enter onto property in accordance with Section 542 of the *Municipal Government Act* to carry out an inspection, enforcement, or other action required or authorized by this Bylaw, the *Municipal Government Act*, or other statute.
- 8.2 When exercising the authority granted under Section 8.1 of this Bylaw and the *Municipal Government Act*, a Peace Officer shall provide the owner or occupant reasonable notice for entry as required by the *Municipal Government Act*.
- 8.3 Any owner or occupier of a property who violates this Bylaw may be issued a written order, by a Peace Officer, to address the violation in any manner deemed necessary according to Section 545 of the *Municipal Government Act* in the case of a nuisance property, or Section 546 of the *Municipal Government Act* in the case of a danger to public safety or unsightly property.
- 8.4 An owner or occupier or other person who receives a written order under this section may request a review of the order by providing written notice to the Town of Bassano within fourteen (14) days of the day when the order was received. After receiving a review request, Council will review the order at their next scheduled Council meeting. Following Council's review of the order, Council may confirm, amend, substitute or cancel the order.
- 8.5 An owner or occupant may appeal the decision of Council under Section 8.4 to the Court of Queen's Bench in accordance with Sections 547 and 548 of the *Municipal Government Act*.
- 8.6 Any expenses and costs of any action or measure taken by the Town under the provisions of this Bylaw are amounts owing to the Town by the owner, occupant, or any other person in violation of this Bylaw as per Section 568 of the *Municipal Government Act*.
- 8.7 If the Town sells any item removed from a property under the provisions of this Bylaw, the proceeds of sale must be used to pay the expenses and costs of the removal, or any costs contemplated in Section 8.6, and any excess proceeds must be paid to the owner or occupant entitled to them.

- 8.8 The expenses and costs incurred by the Town in the enforcement of this Bylaw may be collected as a civil debt, or added to the tax roll of the property that is subject to the enforcement proceedings, in accordance with Sections 552 and 553 of the *Municipal Government Act*.
- 8.9 The Town may register a caveat under the *Land Titles Act* in respect to an order issued under this Bylaw against the Certificate of Title for the property that is subject to the order, in accordance with Section 546 of the *Municipal Government Act*.
- 8.10 An order under this Bylaw may be served to the owner or occupant of a property, and is deemed to have been served on the owner or occupant when:
- 8.10.1 personally delivered to the owner or occupant;
  - 8.10.2 left for the owner or occupant at their residence with a person on the premises who appears to be at least eighteen (18) years old;
  - 8.10.3 five (5) days following the order being sent by registered mail addressed to the last known postal address of the owner or occupant; or
  - 8.10.4 Posted in a visible location on the property referenced in the order.

## **9. PENALTIES**

- 9.1 Regardless of whether an order has been issued under this Bylaw or not, any person who violates any provision of this Bylaw is guilty of an offense and is liable to a penalty as set out in Schedule "A" of this Bylaw.
- 9.2 Under no circumstances shall any person be subject to imprisonment for violating any provision of this Bylaw.

## **10. VIOLATION TAGS**

- 10.1 A Peace Officer is authorized and empowered to issue a violation tag to any person whom the Peace Officer has reasonable and probable grounds to believe has violated a provision of this Bylaw.
- 10.2 A violation tag shall be served on a person in the same manner as outlined for an order in Section 8.10 of this Bylaw.
- 10.3 The violation tag shall be in a form approved by the CAO, and shall include:
- 10.3.1 the name of the owner and/or occupant of the property;
  - 10.3.2 a description of the property;
  - 10.3.3 the violation of this Bylaw;
  - 10.3.4 the specified penalty for the violation as specified in Schedule "A" of this Bylaw;
  - 10.3.5 that the penalty shall be paid within thirty (30) days of the violation tag; and
  - 10.3.6 any other information as may be required by the CAO.

- 10.4 Where a violation of this Bylaw is continuous and/or ongoing, further violation tags may be issued by a Peace Officer, providing that no more than one violation tag shall be issued for each day the violation continues.
- 10.5 Where a violation tag has been issued, the person to whom the violation tag has been issued, in lieu of being prosecuted for the violation, pay to the Town of Bassano the penalty amount on the violation tag.
- 10.6 Nothing in this Bylaw shall prevent a Peace Officer from immediately issuing a violation ticket for the mandatory court appearance of any person who violates any provision of this Bylaw.

## **11. VIOLATION TICKETS**

- 11.1 If the penalty specified on a violation tag is not paid by the date specified on a violation tag, a Peace Officer is authorized and empowered to issue a violation ticket pursuant to part II of the *Provincial Offenses Procedure Act*.
- 11.2 Regardless of any other provision of this Bylaw, a Peace Officer is authorized and empowered to immediately issue a violation ticket instead of a violation tag to any person who the peace officer has reasonable and probably grounds has violated a provision of this Bylaw.
- 11.3 Where there is a specified penalty listed for a violation in Schedule "A" of this Bylaw, the amount is the specified penalty for the violation.
- 11.4 Regardless of the penalties set out in Schedule "A" of this Bylaw:
  - 11.4.1 If a person is convicted twice of the same violation of this Bylaw within a twelve month period, the specified penalty for the second violation shall be double the amount listed in Schedule "A"; and
  - 11.4.2 If a person is convicted three or more times of the same violation of this Bylaw within a twelve month period, the specified penalty for the third and subsequent violations shall be triple the amount listed in Schedule "A"

## **12. REPEAL**

- 12.1 The following Bylaws are hereby repealed:
  - 12.1.1 Bylaw #797/05, the "Unsightly Property Bylaw"; and
  - 12.1.2 Bylaw 690/84, the "Noise Bylaw"

**4. EFFECTIVE DATE AND READINGS**

- 4.1 This Bylaw shall take effect effect on the date of 3<sup>rd</sup> and final reading.
- 4.2 Read a first time this 9<sup>th</sup> day of July, 2018.
- 4.3 Read a second time this \_\_ day of \_\_\_\_\_, 2018
- 4.4 READ a third and final time this \_\_ day of \_\_\_\_\_, 2018

**TOWN OF BASSANO**

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**MAYOR**

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**CHIEF ADMINISTRATIVE OFFICER**



## SCHEDULE A

### Community Standards Bylaw #877/18 Specified Penalties

| <b><u>Offense</u></b>  | <b><u>Section</u></b> | <b><u>Penalty</u></b> |
|--|-----------------------|-----------------------|
| Permit a nuisance on private property or permit unsightly property | 3.3                   | \$500.00              |
| Cause or permit noise  | 4.3                   | \$250.00              |
| Motor vehicle repair in contravention of bylaw                     | 5.1                   | \$250.00              |
| Failure to remove graffiti from property                           | 6.1                   | \$250.00              |
| Failure to display civic address                                   | 7.1                   | \$100.00              |