



BEING A BYLAW OF THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31 TO REGULATE NEIGHBOURHOOD UNSIGHTLY PROPERTY, NUISANCE AND NOISE ISSUES ON PROPERTIES UNDER THE JURISDICTION/CONTROL OF THE MD OF FOOTHILLS NO. 31.

CITATION

1. This Bylaw may be cited as the “MD of Foothills No. 31 Community Standards Bylaw.”

ENACTMENT

WHEREAS pursuant to the provisions of the Municipal Government Act, Revised Statutes of Alberta 2000, and amendments thereto, the Council of the Municipal District of Foothills No. 31 in the Province of Alberta, authorizes a municipality to pass bylaws respecting the safety, health and welfare of people and protection of people and property;

AND WHEREAS the Municipal Government Act authorizes a municipality to pass bylaws respecting nuisances, including unsightly property;

AND WHEREAS the Council deems it necessary to provide for the fair and efficient regulation and control of Noise occurring within the Municipal District of Foothills; and

AND WHEREAS the Council recognizes that the Municipal District is large and diverse and includes areas where residential, commercial, agricultural and industrial uses are permitted;

AND WHEREAS the Municipal Government Act authorizes a municipality to pass bylaws regarding the remedying of contraventions of bylaws;

AND WHEREAS the Council deems it necessary to repeal and replace Village of Cayley Bylaw #337-92 and Village of Blackie Bylaw 15-1985; and

NOW THEREFORE the Council of the Municipal District of Foothills No.31 in the Province of Alberta duly assembled enacts as follows:

PART 1 - INTERPRETATION AND DEFINITIONS

2. In this Bylaw,

- a. “Agricultural” means systems of tillage and animal husbandry which involved concentrated methods used on areas of land to raise crops or keep livestock, poultry, and other animals, or their products for market, and includes intensive livestock operations, intensive swine operations, intensive poultry operations, intensive vegetative operations;
- b. “ATV’s or All Terrain Vehicles” means any vehicle propelled by any power other than muscle power and includes vehicles known in the automotive trade as snow machines, quads, motorcycles, go-karts, scooters, etc.
- c. “Board” means the Community Standards Appeal Board;
- d. “Building” includes a structure or anything constructed or placed on, in, over or under land but does not include a highway, road, bridge forming part of a highway or road;

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- e. “Construction” means the building or maintenance of roads, earthworks or the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, including landscaping, home repair, property improvement and any work in connection with that process;
- f. “Continuous Sound” means any sound that occurs:
 - i. for a continuous duration of more than 3 minutes; or
 - ii. sporadically for a total of more than 3 minutes in any continuous 15 minute time period;
- g. “Council” means the Council of the Municipal District of Foothills No. 31;
- h. “Country Residential” means use of a relatively small lot principally as a site for a private detached single family dwelling in a rural setting and in respect of which this Bylaw may allow other accessory uses of the dwelling or the lot to be made. The expressions “country residential development” and “country residential purposes” have a corresponding meaning;

- i. “Day-time” means the period:
 - i. beginning at 6:00 a.m. and ending at 10:00 p.m. of the same day on Weekdays; or
 - ii. beginning at 9:00 a.m. and ending at 10:00 p.m. of the same day on a weekend;

- j. “Municipal District” means:
 - i. The Municipal District of Foothills No.31, a Municipal District duly established pursuant to the laws of the Province of Alberta; or
 - ii. The area within the legal boundaries of the Municipal District of Foothills No. 31;

- k. “Night-time” means the period beginning at 10:00 p.m. and ending the following day at:
 - i. 6:00 a.m. if the following day is a Weekday; or
 - ii. 9:00 a.m. if the following day is a Weekend;

- l. “Officer” means the Bylaw Enforcement Officer, a Special Constable or a member of the RCMP who is authorized to enforce bylaws;

- m. “Owner” of a property or premises means:
 - i. a Person who is registered under the Land Titles Act as the owner of the land;
 - ii. a Person who is recorded as the power of the property on the tax assessment roll of the Municipal District;
 - iii. a Person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser and has not yet become the registered owner thereof;

 - iv. a Person holding himself out as the person having the powers and authority of ownership of the property or Premises or who for the time being exercises the powers of authority and ownership;
 - v. a Person controlling the property or Premises under construction; or

- vi. A person who is the occupant of the property or Premises pursuant to a lease agreement, license or permit;
 - n. "Person" includes a corporation, other legal entities and an individual having charge or control of a premises;
 - o. "Premises" includes the external surfaces of all buildings and the whole or part of any parcel of real property, including land immediately adjacent to any building or buildings, situated in whole or in part within the Municipal District and includes any buildings owned or leased by the Municipal District;
 - p. "Remedial Order" means an order written pursuant to Section 545 of the Municipal Government Act;
 - q. "Signalling Device" means any device that produces and audible sound used for the purpose of drawing a Person's attention, including a horn, gong, bell, klaxon or public address system.
 - r. "Truck" means any vehicle that has a gross allowable maximum weight in excess of 5450 kilograms as listed on the official registration certificate issued by the Government of the Province of Alberta, regardless of the vehicles actual weight at a specific time, and includes a truck-tractor and tractor-trailer, but does not include a Concrete Mixer or a Garbage Truck;
 - s. "Vehicle" has the same meaning as in the *Traffic Safety Act*;
 - t. "Weekday" means Monday through Saturday, inclusive unless it falls on a holiday, as defined in the *Interpretation Act R.S.A. 2000, c. I-8*, as replaced from time to time;
 - u. "Weekend", means Sunday and any other holiday as defined in the *Interpretation Act R.S.A. 2000, c. I-8*, as amended or replaced from time to time.
3. The owner of any real property, as registered on title at the Land Titles Office is ultimately responsible for all activities on the property which may constitute prohibitions of this Bylaw.
 4. Nothing in this bylaw relieves a person from complying with any Federal or Provincial Law or Regulation, other bylaw or any requirements of any lawful permit, order or license.
 5. For the purpose of this Bylaw Residential Development means any land that is the site of one or more Residential Buildings and is designated in

the M.D. of Foothills Land Use Bylaw as one of the following Land Use Districts:

- a. Residential or Country Residential (CR);

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- b. Direct Control (DC), where the applicable land use guidelines allows a use which is residential; or
- c. Any other Land Use District which allows residential uses.

PART 2 – UNSIGHTLY PREMISES AND NUISANCE

GENERAL PROHIBITIONS

6. An owner or occupier of a Premise shall not cause or allow that property or the use of that property to constitute a Nuisance.
7. An owner or occupier of Premise shall not cause or allow that property to be an Unsightly Premise.
8. Conditions constituting a Nuisance or Unsightly Premises may include, but shall not be limited to:
 - a. the accumulation of rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement, sewage, the whole part of an animal carcass, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken household furniture, chattels or goods, boxes, cartons, discarded fabrics and the like;
 - b. uncut grass or the presence of weeds, which in the opinion of the Officer, are excessive or which demonstrate neglect by the owner;
 - c. the whole or any part of more than three unlicensed vehicles which are inoperative by reason of disrepair, removed parts or missing equipment;
 - d. equipment or machinery that has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances;
 - e. the flow of water from hose, eavestrough, or downspout or similar device on the premises directed towards adjacent premises if it is likely that the water from the hose, eavestrough, downspout or similar device will enter the adjacent premises;

- f. the open or exposed storage on the premises of any industrial fluid, including engine oil, break fluid, or antifreeze;
 - g. the accumulation of animal material, yard material, ashes or scrap building material;
 - h. the accumulation of building materials, whether new or used unless the owner or occupier can establish that a construction or renovation undertaking is being carried out on the premises and that the project has begun or the beginning of the work is eminent; and that the material is stacked or stored in an orderly manner;
 - i. any form of scrap, litter, trash, or waste of any kind.
9. Notwithstanding Section 16.g. the accumulation of manure or other animal waste on property located in an agricultural district shall not constitute a nuisance under this Bylaw conditional to it not adversely affecting the quality of life or health of the neighboring properties.
10. In determining whether a premise is a Nuisance or an Unsightly Premises an Officer shall have regard to the use and location of the property.
11. If an Officer has reason to believe that any property is a Nuisance or Unsightly Premises he/she may exercise right of access to the property in order to inspect the premises to determine whether the property contravenes the Bylaw.

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12. If the Officer considers any property to be a Nuisance or Unsightly Premises, the Enforcement Officer may issue a Remedial Order.

MAINTENANCE STANDARDS RESIDENTIAL DEVELOPMENTS

13. All buildings, structures and improvements to property in Urban Areas shall be maintained so that the:
- a. the foundations;
 - b. exterior walls;
 - c. roof;
 - d. windows, including frames, shutters and awnings;
 - e. doors, including frames and awnings;
 - f. steps and Sidewalks, driveways; and
 - g. fences

are kept in a reasonable state of repair.

14. All fixtures, improvements, renovations, or additions to any building, structure or improvement of property, including but not limited to:

- a. exterior stairs;
- b. porches;
- c. decks;
- d. patios;
- e. landings;
- f. portable seasonal lawn furniture and accessories;
- g. gazebo;
- h. balconies; or
- i. other similar structures

shall be maintained in a reasonable state of repair.

15. All residents shall ensure, in Hamlets, commercial, residential, agricultural and industrial parcels, that all garbage is stored in animal/weather proof containers and is responsible for any such clean up relating to a violation of this section.

EXCLUSIONS AND EXEMPTIONS

16. The provisions of this Part of the Community Standards Bylaw shall not be interpreted to prevent bona fide and permitted commercial, industrial, agricultural, construction, demolitions, renovation, landscaping, clean-up, storage or other related activities from being carried out on, or in relation to a Premise.

17. The owner of a Premise that carried on, or permits the carrying on of any activities referred to in this part of the Bylaw shall ensure that all reasonable steps to minimize the duration and visual impact of any resulting untidiness or unsightliness of the Premise.

18. The Municipal District of Foothills No. 31 Municipal Activities.

19. Landfills and Transfer Stations within the Municipal District.

20. Any operation or activity operating under a valid Development Permit and the conditions outlined within.

PART 3 – NOISE

GENERAL PROHIBITIONS

21. No person shall in either Day-time or the Night-time:

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- a. Make, continue, cause, or allow to be made or continued any excessive, unnecessary, or unusual noise of any type; or
- b. Allow or permit any real or personal property that is owned occupied or controlled by that Person to be used in a way that allows excessive, unnecessary, or unusual Noise of any type to emanate from such property;
- c. Operate, allow or permit the operation of a speaker system of any type as an unnecessarily loud volume, thereby creating excessive noise.
- d. Operate a motorized vehicle including ATV without a muffler or muffler with baffles removed.

22. Except as authorized pursuant to this Bylaw, no owner or occupier of a Premises shall make or cause or allow to be made or continue any noise which emanates from the Premises and disturbs or annoys a Person, including any loud outcry, clamour, shouting, movement, music or activity

ACTIVITIES IN RESIDENTIAL DEVELOPMENTS

23. No Person shall operate:

- a. a hand lawn mower;
- b. motorized garden tool;
- c. a power tool outside of any building or structure;
- d. a model aircraft driven by an internal combustion engine of any kind;
- e. snow clearing device powered by an engine of any kind; or
- f. a motorized snow or leaf blowing device;
- g. an ATV/motorcycle upon public lands, municipal/environmental reserves, road allowances, gravel pits, or public roads

in a Residential Development during the Night-time.

24. A Person who owns, occupies or controls a Truck or School Bus must not at anytime allow it to remain running for longer than twenty (20) minutes when it is stationary in a Residential Development or within 150 metres of a Residential Development.

VEHICLE NOISES

25. Except as authorized through development permit approval, no Person shall permit a vehicle located on a Premises to emit noise which emanates from that Premises and disturbs or annoys a Person, including noises from racing, excessive engine revving and stereo and amplification equipment in the vehicle. For the purposes of this section of the Bylaw a vehicle is defined as a vehicle propelled by any power other than muscle power and includes vehicles known in the automotive trade as snow machines, motor cycles, scooters and all terrain vehicles but does not include tractors or other vehicles operated in the maintenance of property, production of crops or livestock operations. No ATV/motorcycle shall be operated in the Municipal District if the baffles from the muffler have been removed to project excessive noise.

EXCLUSIONS AND EXEMPTIONS

26. The Provisions of this Part of the Community Standards Bylaw do not apply to:

- a. Emergency Vehicles;
- b. Construction in Residential Developments during the Day-time; whether or not the Construction requires any municipal permits;
- c. work on a municipal street or on a public utility carried out by the owner or operator of the public utility, or its contractors;

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- d. any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta;
- e. Spruce Meadows and other equestrian facilities, livestock auction markets, community centers such as halls, Agricultural Grounds, and Recreation Facilities, Golf Courses
- f. Landfills or Transfer Stations;
- g. work performed in relation to a highway or public utility by the owner or operator of the public utility, or its contractors;
- h. the aeronautical related activities of any airports located within or nearby the municipal district;
- i. activities or event exempted under the M.D. of Foothills Land Use Bylaw;
- j. film industry activities.
- k. Work or activities deemed to be an emergency

27. The provisions of this Part of the Community Standards Bylaw must not be interpreted to prevent:

- a. the ringing of bells in churches, religious establishments, and schools;
- b. the use of signaling devices of Vehicles in their normal operation for the purpose of giving warnings to other drivers or pedestrians;
- c. the sounding of any alarm or warning to announce a fire or other emergency;
- d. the playing of a band or other activities relating to a lawful parade or public demonstration.

PART 4 – MISCELLANEOUS PROHIBITONS

28. No person shall operate an ATV on an unapproved track, municipal road allowance, ditch, Environmental or Municipal Reserve, gravel pits or any other public property.
29. All properties, whether commercial, industrial, Hamlet Residential, Country Residential or Agricultural must store household and miscellaneous rubbish in an animal or weather proof container.

PART 4 – REMEDIAL ORDERS AND THE CREATION OF THE COMMUNITY STANDARDS APPEAL BOARD

REMEDIAL ORDERS

30. Every Remedial Order written with respect to this Bylaw must:
 - a. indicate the Person to whom it is directed;
 - b. identify the property to which the remedial order relates by municipal address or legal description;
 - c. identify the date that it is issued;
 - d. identify how the Premises fails to comply with this or another bylaw;
 - e. identify the specific provisions of the Bylaw the Premises contravenes;
 - f. identify the nature of the remedial action required to be taken to bring the Premises into compliance;
 - g. identify the time within which the remedial action must be completed;
 - h. indicate that if the required remedial action is not completed within the time specified, the Municipality may take whatever action or measures are necessary to remedy the contravention;
 - i. indicate that the expenses and costs of any action or measures taken by the Municipality under this Section are an amount owing to the Municipality by the Person to whom the order is directed;
 - j. indicate that the expenses and costs referred to in this Section may be attached to the tax roll of the property if such costs are not paid by a specified time;

- k. indicate that an appeal lies from the Remedial Order to the Community Standards Appeal Board if a notice of appeal is filed in writing with the Secretary of the Community Standards Appeal Board within fourteen days of the date of the Remedial Order.

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31. A Remedial Order written pursuant to this Bylaw may be served personally upon the owner of the premises to which it relates, or it may be left with a Person apparently over the age of 18 years at the premises or sent by regular mail to the address on the tax roll or posted on the parcel in contravention of the bylaw.
32. If, in the opinion of an Officer, service of the Remedial Order cannot be reasonably affected, or if the Officer believes that the owner of the premises is evading service, the Officer may post the Remedial Order in a conspicuous place on the Premises to which the Remedial Order relates, or on the private dwelling place of the owner of the Premises, as registered at the Land Titles Office or on the municipal tax roll for the premises, and the Remedial Order shall be deemed to be served upon the expiry of three (3) days after the Remedial Order is posted.
33. Every person who fails to comply with a Remedial Order issued pursuant to this Bylaw within the time set out in the Remedial Order commits an offence.

APPEAL OF REMEDIAL ORDERS

34. A person to whom a Remedial Order is directed may seek a review of the Remedial Order by filing an appeal in writing to the Secretary of the Community Standards Appeal Board within fourteen (14) days of receipt of the Remedial Order.
35. An appeal must state the name of appellant, the municipal address of the property to which the Remedial Order being appealed from relates, a day-time telephone number at which the appellant may be reached, and an address at which documents in relation to the appeal maybe delivered.

CREATION OF COMMUNITY STANDARDS APPEAL BOARD

36. The Community Standards Appeal Board is hereby constituted under the following terms:
 - a. The Board shall be a committee of Council;

- b. The Board shall consist of five (5) members, two (2) Councilors and three (3) members of the general public;
- c. The Board may adopt a set of rules and procedures with respect to the conduct of reviews;
- d. In the event that any member of Council appointed as a member of the Board can not be in attendance at a meeting of the Board, any other Member of Council may sit as a substitute for that member of the Board.

37. Pursuant to Section 547 of the Municipal Government Act, the Board may review:

- a. Remedial Orders issued pursuant to this Bylaw;
- b. Orders issued pursuant to Section 545 of the Municipal Government Act regarding contraventions of other bylaws or enactments that the Municipality is authorized to enforce; and
- c. Orders issued pursuant to Section 546 of the Municipal Government Act.

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PART 5 – ENFORCEMENT

GENERAL PENALTY PROVISION

38. Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$XXXXX, or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

VIOLATION TICKETS AND PENALTIES

39. Where an Officer believes that a person has contravened any provision of this bylaw the Officer may commence proceedings against the Person by issuing a violation ticket pursuant to the *Provincial Offense Procedures Act, RSA 2000 d. P-24*

40. The minimum fine for a violation of Part 2 of this Bylaw is XXX.

41. The maximum fine for a violation of Part 2 of this Bylaw is XXX.

42. The minimum fine for a violation of Part 3 of this Bylaw is XXX.

43. The maximum fine for a violation of Part 3 of this Bylaw is XXX.

44. Notwithstanding Section 34 of this Bylaw if a person violates the same provision of this Bylaw twice within a one-year period, the minimum and specified penalty for the second such violation shall be double the amount set out in Section 34.

ENFORCEMENT

45. Where an Officer has reasonable ground to believe that a Person has violated any provision of this Bylaw, the Officer may commence Court Proceedings against such Person by:

- a. Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*, or
- b. Swearing out an information and Complaint against the Person.

46. Where an Enforcement Officer issues a Person a violation ticket in accordance with section 35 of this Bylaw, the Officer may either:

- a. Allow the Person to pay the specified penalty as provided for the offence in Sections 34, 36, 37, 38 and 39 of this Bylaw by including such specified penalty in the Violation Ticket; or
- b. Require a Court appearance of the Person where the Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*.

SEVERABILITY

43. Each provision of this Bylaw is independent of all other provisions

EFFECTIVE DATE

READINGS BY COUNCIL