

## **BYLAW NO. 34/2009**

**BEING A BYLAW OF THE MUNICIPAL DISTRICT OF FOOTHILLS NO. 31 TO AUTHORIZE THE REPLACEMENT OF BYLAW NO. 88/2008; CONSOLIDATING A BYLAW BY INCORPORATING ALL AMENDMENTS TO IT INTO ONE BYLAW.**

### **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 No.31; and

**AND WHEREAS** the Council recognizes that the Municipal District of Foothills No.31 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 involve methods used on large areas of land for the raising of crops or the rearing of livestock (provided that the density of the operation does not exceed 1 animal unit per 3 acres of land) whether separately or in conjunction with one another in unified operations and includes buildings and other structures incidental to the agricultural operation where the intent of the building or structure is to be used as an “arena, private”, “arena, limited public” or “ arena, commercial” as defined in the Land Use Bylaw, as amended or repealed from time to time.

- b. **“Board” means the Community Standards Appeal Board;**
- c. **“Building” includes a structure or anything constructed or placed on, in, over or under land but does not include a highway, road, or bridge forming part of a highway or road;**
- d. **“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;**
- e. **“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;**
- f. **“Council” means the Council of the Municipal District of Foothills No. 31;**
- g. **“Country Residential” as defined in the Municipal District of Foothills #31, Land Use Bylaw.**
- h. **“Day-time” means the period:**
  - i. **beginning at 7:00 a.m. and ending at 9:00 p.m. of the same day on Weekdays; or**
  - ii. **beginning at 9:00 a.m. and ending at 9:00 p.m. of the same day on a weekend;**
- i. **“Highway” means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle way or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage or parking of vehicles and includes:**
  - i. **a sidewalk, including a boulevard adjacent to the sidewalk;**
  - ii. **if a ditch lies adjacent to and parallel with the roadway, the ditch, and;**
  - iii. **if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be;****but does not include a place declared by regulation not to be a highway;**
- 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 9:00 p.m. and ending the following day at:**
  - i. **7:00 a.m. if the following day is a Weekday; or**
  - ii. **9:00 a.m. if the following day is a Weekend;**
  
- l. **“Noise” means any loud, unnecessary or unusual sound or any sound whatsoever which, in the opinion of an Officer in his sole discretion, having regard for all circumstances, including the time of day, and the nature of the activity generating the sound, is likely to unreasonably annoy, disturb, injure or detract from the comfort, repose, health, peace or safety of any Person within the limits of the Municipal District of Foothills No. 31.**
  
- m. **Nuisance – means any condition or use of Premises which, in the opinion of an Officer, constitutes an unreasonable interference with the use and enjoyment of other Premises.**
  
- n. **“Off-Highway Vehicles”, has the same meaning as in the Traffic Safety Act; RSA 2000,c, T-6, as amended or repealed and replaced from time to time;**
  
- o. **“Officer” means the Bylaw Enforcement Officer, a Community Peace Officer or a member of the RCMP who is authorized to enforce bylaws or for the purpose of inspection and enforcement under the Bylaw, an Officer is a designated Officer of the Municipality;**
  
- p. **“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 assessed person 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;**
  
- q. **“Person” includes a corporation, other legal entities and an individual having charge or control of a premises;**

- r. **“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;
- s. **Provincial Offences Procedure Act** – means the Provincial Offences Procedure Act, RSA 2000, c.P-34, as amended or repealed from time to time;
- t. **“Remedial Order”** means an order written pursuant to Section 545 or 546 of the Municipal Government Act; RSA 2000, cM-26, as amended, or repealed and replaced from time to time.
- u. **“Residential development”** means any land that is the site of one or more Residential Buildings and is designated by the M.D. of Foothills No.31 Land Use Bylaw as one of the following Land Use Districts:
  - i. Residential or Country Residential (CR);
  - ii. Direct Control (DC), where the applicable land use guidelines allows a use which is residential;
  - iii. A Hamlet;
- v. **“Signalling Device”** means any device that produces an audible sound used for the purpose of drawing a Person’s attention, including a horn, gong, bell, klaxon or public address system;
- w. **“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;
- x. **“Unsightly Premises”** means any Premises whether land, buildings, improvements to land or buildings, personal property or any combination of the above, located on the lands within the Municipal District, in the opinion of an Officer, is unsightly to such a degree as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Unsightly Premises, or as otherwise detrimental to the surrounding area or in an unsightly condition as defined in the Municipal Government Act;
- y. **“Vehicle”** has the same meaning as in the *Traffic Safety Act*; RSA 2000,c, T-6, as amended or repealed and replaced from time to time;
- z. **“Violation Ticket”** – means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act;
- aa. **“Woodland”** means any natural bush, grass or trees which would not normally be maintained or groomed in order to protect its natural state;

- bb. "Weekday" means Monday through Friday, 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;
  - cc. "Weekend", means Saturday and Sunday or 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.

## PART 2 – UNSIGHTLY PREMISES AND NUISANCE

### GENERAL PROHIBITIONS

5. An owner or occupier of a Premise shall not cause or allow that property or the use of that property to constitute a Nuisance.
6. An owner or occupier of a Premise shall not cause or allow the premise to be or become an unsightly premise.
7. 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, animal feces, 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; with the exception of natural woodland or brush, provided it does not constitute a fire hazard;
  - c. the whole or any part of more than one (1) unlicensed vehicle within a Hamlet or less than two acres or more than three (3) unlicensed vehicles on any other parcel, 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, eaves trough, or downspout or similar device on the premises directed towards adjacent premises if it is likely that the water from the hose, eaves trough, downspout or similar device will enter the adjacent premises;
  - f. the open or exposed storage on the premises of any industrial fluid, including, but not limited to, engine oil, break fluid, or antifreeze;



- g. gazebo;**
- h. balconies; or**
- i. other similar structures**

are kept in a reasonable state of repair consistent with the surrounding area and do not constitute a safety hazard, the determination of which shall be in an Officer's sole discretion.

#### EXCLUSIONS AND EXEMPTIONS

- 14. The provisions of Part 2 – Unsightly Premises and Nuisance of this Community Standards Bylaw shall not apply to the following situations or activities:**
- a. bona fide and permitted commercial, industrial, agricultural, construction, demolitions, renovation, landscaping, clean-up, storage or other related activities; for which any applicable municipal, provincial, or federal permits have been granted, if required, from being carried out on, or in relation to a Premise;**
  - b. the Municipal District of Foothills No. 31 Municipal Activities;**
  - c. landfills and Transfer Stations within the Municipal District;**
  - d. any operation or activity operating under valid Municipal Development approval conditions outlined within.**
- 15. The Owner or Occupant of a Premise that carried on, or permits the carrying on of any of these activities as set out in Section 14 of this Bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the Premises.**

#### PART 3 – NOISE

##### GENERAL PROHIBITIONS

- 16. No person shall in either Day-time or the Night-time:**
- 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 Off-Highway Vehicle, if the exhaust muffler is cutout, disconnected or has had the baffle plate or other part removed;**

17. 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, clamor, shouting, movement, music or activity

ACTIVITIES IN RESIDENTIAL DEVELOPMENTS

18. No Person shall operate:

- a. a 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. or any other motorized device which may cause a disturbing noise.

in a Residential Development during the Night-time.

19. A Person who owns, occupies or controls a Truck, as defined in this Bylaw, 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

20. Except as authorized through development permit approval, no Person shall permit a vehicle located on 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 includes a Vehicle and Off-Highway Vehicle but does not include tractors or other vehicles operated in the maintenance of property, production of crops or livestock

21. If a vehicle is involved in an offence referred to in Article 20, the registered owner of that vehicle is guilty of an offence.

EXCLUSIONS AND EXEMPTIONS

22. 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;
- 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

23. 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.

#### MISCELLANEOUS PROHIBITIONS

24. No person shall operate an Off-Highway Vehicle on an unapproved track, municipal road allowance, ditch, Environmental or Municipal Reserve, Public Reserve, gravel pit or any other public property.

25. All properties, whether Commercial, Industrial, Residential Developments, or Agricultural must store household and miscellaneous rubbish in an animal and weather proof container.

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

##### REMEDIAL ORDERS

26. Where an Officer believes a Person has contravened any provision of this Bylaw, they may:

- a. issue a Remedial Order and/or;
- b. issue a Violation Ticket;

27. Every Remedial Order written with respect to this Bylaw must:

- a. indicate the Person to whom it is directed and the Owner;
- 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.
28. 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.
29. 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

30. 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.
31. A decision of the Board delivered orally is a decision served pursuant to Section 548 of the MGA, RSA 2000, C.m-26, as repealed and replaced from time to time.
32. 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 may be delivered.

CREATION OF COMMUNITY STANDARDS APPEAL BOARD

33. 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, one (1) Councilor and four (4) 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.
34. Pursuant to Section 203 of the Municipal Government Act, Council hereby delegates its authority under Section 547 of the Municipal Government Act, to the Community Standards Appeal Board. As a result of such delegation, the Board may review, remedial orders issued pursuant to this Bylaw; 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 orders issued pursuant to Section 546 of the Municipal Government Act and;

PART 5 – ENFORCEMENT

OFFENCE:

35. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon summary conviction, to the specified penalty for the offence as set out in Schedule “A”
36. An Officer is hereby authorized and empowered to issue Violation tickets to any person who the Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
37. A Violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the person responsible for the contravention in accordance with the Provincial Offences Procedure Act;
38. 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 of Alberta, on or before the initial appearance dates, the Violation Ticket together with an amount equal to the specified penalty as set out in Schedule “A”
39. When a Clerk of the Provincial Court of Alberta accepts receipt of a voluntary payment pursuant to Section D of the Provincial Offences Procedure Act, the act of recording the payment constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty

VIOLATION TICKETS AND PENALTIES

40. 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 Part 2 of the *Provincial Offense Procedures Act, RSA 2000, Chapter P-34*.
41. The minimum specified penalties are outlined in Schedule A of this Bylaw.
42. Notwithstanding Section 31 of this Bylaw if a person is convicted of violating the same provision of this Bylaw twice within 12 months from the date of the first offence the minimum specified penalty for the second such violation shall be double the amount set out in Schedule A of this Bylaw.

ENFORCEMENT

43. Where an 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 minimum specified penalty as provided in Schedule A of this Bylaw; 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*.
44. If a Remedial Order is issued pursuant to this Bylaw, the Municipality may take whatever actions or measures are necessary to deal with the unsightly condition of a property in accordance with Section 549 of the Municipal Government Act, RSA 2000, c.M-26, as amended, or repealed and replaced from time to time and collect any unpaid costs or expenses incurred by the Municipality in accordance with the Act.
45. The Municipality is not required to enforce this bylaw. In deciding whether to enforce this bylaw, the municipality may take into account any practical concerns, including available municipal budget and personnel resources
46. The costs and expenses of the actions or measures taken by the Municipality are charged in addition to any penalty imposed under this Bylaw.

SEVERABILITY

47. Every provision of this Bylaw is independent of all other provisions, 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 valid and enforceable.

REPEAL

48. This Bylaw rescinds Village of Cayley Bylaw 337-92 and Village of Blackie Bylaw 15-1985

**Bylaw No. 34/2009**

EFFECTIVE DATE

**49. This Bylaw shall have effect on the date of its third reading.**

First Reading: April 22, 2009

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Municipal Manager

Second Reading: April 22, 2009

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Reeve

\_\_\_\_\_  
Municipal Manager

Third Reading: April 22, 2009

\_\_\_\_\_  
Reeve

\_\_\_\_\_  
Municipal Manager

**PASSED IN OPEN COUNCIL** assembled at the Town of High River in the Province of Alberta this 22<sup>nd</sup> day of April, 2009, A.D.



SCHEDULE "A"  
SPECIFIED PENALTIES

<b>SECTION</b>	<b>OFFENCE</b>	<b>MINIMUM SPECIFIED PENALTY</b>
5.	Nuisance Property	\$200
6.	Unsightly Premise	\$300
12.	Building, structure, or improvement in unreasonable state of repair	\$200
13.	Fixtures, improvements, renovations, or additions in unreasonable state of repair	\$200
16.a.	Make, continue, cause or allow noise	\$200
16.b.	Allow or permit property to be used in a way that allows excessive noise	\$300
16.c.	Permit the operation of a speaker system at a loud volume	\$300
16.d.	Operate a motorized vehicle without a muffler	\$500
17.	Cause or allow excessive noise that emanates from the premises	\$200
18.a. – g.	Operating a hand lawn mower, motorized garden tool, power tool, model aircraft, and snow clearing device, motorized snow or leaf blowing device, and/or any other motorized device which may cause a disturbing noise in a residential development during the night time..	\$500
19.	Allowing a truck or school bus to remain running for longer than 20 minutes when it is stationary in a residential development or within 150 meters of a residential development.	\$200
20.	Vehicular noise	\$200
24.	Operating an ATV in prohibited areas.	\$500
25.	Failure to store rubbish in an animal or weather proof container	\$200
29.	Fail to Comply with Remedial Order	\$500