NUISANCE AND UNSIGHTLY PROPERTY BYLAW

WHEATLAND COUNTY

2020-09

CV

WHEATLAND COUNTY

BYLAW 2020-09

BEING A BYLAW OF WHEATLAND COUNTY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING, CONTROLLING AND ABATING NUISANCES AND REMEDYING UNSAFE AND UNSIGHTLY PROPERTIES

WHEREAS Section 7 of the ***Municipal Government Act***, R.S.A. 2000 c.M-26 as amended or repealed and replaced from time to time, provides Wheatland County Council with the authority to pass bylaws respecting nuisances, including unsafe and unsightly properties;

AND WHEREAS Wheatland County Council deems it expedient and in the public interest to pass a bylaw to establish and enforce minimum standards relating to the state of maintenance of Property and to regulate, control and abate nuisances and unsafe and unsightly properties within the jurisdiction of Wheatland County;

NOW THEREFORE Wheatland County Council, duly assembled, hereby enacts as follows:

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Section 1 – Short Title

1.1 This Bylaw may be cited as the Wheatland County Nuisance and Unsightly Property Bylaw.

Section 2 – Definitions

2.1 In this Bylaw:

a. **"Animal Material"** means any animal carcass, animal excrement (manure or any other form of waste litter) and includes all material accumulated on premises from pet pens or pet yards, stables, veterinary clinics, animal hospitals, kennels or feed lots;

b. **"Ashes"** means the powdery residue accumulated on a property left after the combustion of any substance and includes any partially burnt wood, charcoal or coal or any combustible substance;

c. **"Building Material"** means all construction and demolition material accumulated on a property while storing, constructing, altering, repairing or demolishing any structure and includes, but is not limited to new or used metal, steel, aluminum, tin; or earth, Vegetation or rock displaced during such construction, alteration or repair;

d. **"Chief Administrative Officer"** means that individual appointed by Council as Chief Administrative Officer for the County in accordance with the Municipal Government Act, R.S.A. 2000 Chapter M-26, or his/her designate;

e. **"Council"** means the duly assembled Wheatland County Council;

f. **"County"** means the municipal corporation of Wheatland County and the area within its jurisdictional boundaries, as the context requires;

g. **"Court"** means the Provincial Court of Alberta and/or the Alberta Court of Queen's Bench;

h. **"Day"** means a continuous period of twenty four (24) hours;

i.**"Derelict Equipment"** means mechanical equipment, machinery, vehicles, trailers, appliances, power tools, motorcycles, bicycles, and other personal or commercial Property which has been rendered inoperative by reason of its disassembly, disrepair, age or mechanical condition, or which are otherwise not in a legally roadworthy or functional condition and includes any household appliances stored outside of a residence or other building and any abandoned Property, regardless of whether or not in an operating condition;

j. "**Dwelling Unit"** has the same meaning as "Dwelling Unit" defined in the Land Use Bylaw, as amended or replaced from time to time;

k. **"Land Use Bylaw"** means the County Land Use Bylaw 2007-56, as amended or replaced from time to time;

l. **"Municipal Government Act"** means the ***Municipal Government Act***, R.S.A. 2000 c.M-26, as amended or replaced from time to time.

m. **"Nuisance"** means any condition or unauthorized use of Property which, in the opinion of the Chief Administrative Officer, or an Officer constitutes an unreasonable interference with the enjoyment, use or value of other Property or the quality of life of County residents;

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n. **"Occupant"** means any Person occupying, and/or residing on Property pursuant to a lease agreement, license agreement or other form of permit;

o. **"Officer"** means a Bylaw Enforcement Officer (a Person appointed by the County pursuant to the Bylaw Enforcement Officer Bylaw, as amended or replaced from time to time), member of the RCMP or Peace Officer (as appointed pursuant to the ***Peace Officer Act***, S.A. 2006 Chapter P-3.5, as amended);

p. **"Owner"** means a person registered under the ***Land Titles Act***, R.S.A. 2000, c. L-4 as being the Owner of Property; a Person who is recorded as the owner of Property on the County's assessment roll for the Property; a Person who has purchased and has yet to become the registered Owner of Property; a person controlling Property under construction; and/or a Person who is the lawful Occupant of Property;

q. **"Person"** means any individual, firm, partnership, association, corporation, company, society or other legally constituted organization;

r. **"Property"** means any land, buildings, structures, or premises or any personal property located thereupon, within the County;

s. **"*Provincial Offences Procedure Act*"** means the ***Provincial Offences Procedure Act***, R.S. A. 2000 c. P-34 as amended or replaced from time to time, and the regulations passed thereunder;

t. **"Refuse"** means all solid and liquid wastes including but not limited to; broken dishes, cans, bottles, glass, rags, cast-off clothing, wastepaper, cardboard, containers, organic and non-organic yard and garden waste, garbage, fuels, chemicals, hazardous materials, tires;

u. **"Remedial Order"** means a written order issued pursuant to Section 545 or 546 (0.1) of the ***Municipal Government Act*** and Section 4 of this Bylaw;

v. **"Rural Property"** means any Property zoned as "Agricultural General" , "Country Residential", "Industrial General District" or "Commercial District" in the Land Use Bylaw;

w. **"Roadway"** means land shown as a road on a plan or survey that has been filed or registered in a land titles office or used as a public road and includes a bridge forming part of a public road and any structure incidental to a public road; or used for parking or travel by vehicles

x. **"Sidewalk"** means the part of a pathway or Roadway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Roadway between the curb or edge of Roadway and adjacent Property line whether or not paved or improved;

y. "**Urban Property**" means any Property zoned other than "Agricultural General" and/ or "Country Residential", and includes but is not limited to Property zoned as "Hamlet Industrial District" and/or "Commercial District" in the Land Use Bylaw;

z. "**Unsafe Condition**" means Property that poses or constitutes an undue or unreasonable hazard or risk to the safety, health or welfare of any Person or other Property including, but not limited to, a structurally unsound condition, fire or explosive hazard;

aa. **"Unsightly Property"** means any Property or part thereof that clearly shows signs of neglect, or which otherwise exhibits a significant lack of general maintenance, clean-up, or upkeep, and includes:

i. Property having an excessive, unusual, or unreasonable accumulation of:

A. Animal Material,
B. Ashes,
C. Building Material
D. Derelict Equipment
E. Refuse,
F. Vegetation,
G. garbage, human excrement, sewage, hazardous materials, piles of soil, clay or rubble, petroleum products, metal, plastics, fabrics, used containers, paper products, or any other form of scrap, litter, trash, junk, or waste of any kind;
H. parts of disassembled vehicles (including tires/wheels), appliances, machinery, equipment, or power tools;
I. surplus, disused, damaged or stored vehicles, trailers, motorcycles, bicycles and recreational vehicles, including any such items that are inoperative by reason of disrepair, removed or missing parts, age, damage, or which are otherwise not in a legally roadworthy or functioning condition; and

ii. Any building, structure, or other improvement that exhibits significant physical deterioration, including buildings and structures that suffer from:

A. broken (or missing) windows, siding, shingles, shutters, eaves, roofing or finishing materials; or

B. clearly visible exterior or structural deterioration, damage or decay, including significant fading, chipping or pealing of painted surfaces;

bb. **"Vegetation"** means natural grass, volunteer grass, lawn grass, weeds, bushes, shrubs, trees or any other plant;

cc. **"Violation Tag"** means a Bylaw Violation Tag issued pursuant to the ***Municipal Government Act***;

dd. **"Violation Ticket"** means a ticket issued under Part 2 of the ***Provincial Offences Procedure Act***; and

ee. **"Warning Letter"** means a letter issued by the Chief Administrative Officer or an Officer pursuant to Section 4 of this Bylaw advising an Owner and/or Occupant that Property is in contravention of this Bylaw and directing the actions that the Owner or Occupant must take in order to remedy the contravention, stating a time frame in which the Owner and/or Occupant must comply with the directions and advising that if the Owner and/or Occupant does not comply with the directions within the specified time frame that the County may pursue further enforcement action.

Section 3 – Prohibitions

3.1. If there is more than one Owner and/or Occupant of Property, all Owners and/or Occupants of the Property are jointly and severally responsible to ensure that the Property complies with this Bylaw.

3.2 The Owner or Occupant of Property shall not cause, allow nor permit that Property or the use of that Property to constitute a Nuisance.

3.3 The Owner or Occupant of Property shall not cause, allow nor permit that Property to be in an Unsafe Condition.

3.4 The Owner or Occupant of Property shall not cause, allow nor permit that Property to be an Unsightly Property.

3.5 The Owner or Occupant of Property shall not cause, allow nor permit that Property to remain a Nuisance or Unsightly Property or to remain in an Unsafe Condition.

3.6 The Owner or Occupant of Urban Property shall not cause or allow that Property to have Vegetation accumulate to an extent which results in the Property to be an Unsightly Property or to be in an Unsafe Condition.

3.7 An Owner or Occupant of a property within a Named Area and/or Hamlet shall not have more than (2) unregistered vehicles per property title or residence so as to avoid being deemed as a Nuisance, Dangerous, or Unsightly property.

3.7.1 Wheatland County reserves the right to exercise discretion in relation to the number of unregistered vehicles, with regards to space availability, and number of residences per property title based on individual circumstances in reference to section 3.7.

3.8 The Owner or Occupant of Property located adjacent to a Sidewalk or Pathway which runs in front of the Property or beside the Property and where:

a. such Sidewalk or Pathway runs parallel to and directly adjacent to a Street, or

b. such Sidewalk or Pathway runs parallel to and adjacent to a Street, where the Pathway or Sidewalk and Street are separated only by a grassed or otherwise covered boulevard;

shall remove ice and snow from that portion of the Sidewalk or Pathway adjacent to the Property so that the Sidewalk or Pathway is cleared to the bare surface, within 48 hours after the ice or snow has been deposited.

3.9 Where the Owner or Occupant fails to pay the expenses and costs of removal referred to in Part 3.8, such costs may be added to the tax roll of the Property in accordance with the ***Municipal Government Act***.

3.10 Where a Sidewalk or Pathway is adjacent to Property belonging to an Owner, or where the Property is unoccupied or underdeveloped, and an Officer deems the condition of snow or ice on the Sidewalk or Pathway adjacent to the Property to pose an Unsafe Condition, the County may remove the ice and snow at the Owner's sole cost and expense. The expenses and costs of such removal may be determined and recovered from the Owner of the Property in the same manner as in Part 3.8.

3.11 Any Owner or Occupant of Property who has an awning, canopy, marquee or other encroachment extending from a portion of the Property over a Sidewalk or other portion of a Street shall endeavor to keep the said awning, canopy, marquee or other encroachment free from snow or ice so that it will not fall or drip upon the Sidewalk or Street below.

3.12 The Owner or Occupant of the Property shall cause to be cleaned up any water from melting snow or ice on any awning, canopy, marquee or other encroachment from the Sidewalk or Street and take the necessary precautions to ensure that an icy or dangerous situation is not allowed to exist on the Sidewalk or Street.

3.13 A Person may, in such a way as not to injure or unduly interfere with any other Person lawfully using the Sidewalk, use a power driven device (including but not limited

to electric snow shovels, gas powered snow blowers, but not including Off Highway Vehicles) that is sufficiently light and of such construction that it will not injure the surface of the Sidewalk to remove snow or ice from any portion of the Sidewalk in order to comply with the provisions of this Bylaw.

3.14 A Person who removes snow or ice from public or private Sidewalks and/or public or private driveways shall not deposit said snow or ice upon any Street, highway, or boulevard and shall not impede storm sewer run off or block access to any storm sewer grate, fire hydrant, curb cut or wheelchair ramp.

3.15 In the event of a large accumulation of snow, the County may cause a Street or lane to be cleared of vehicles for the purposes of snow removal. If, after posting or signing said Streets or lanes, an Officer may cause any vehicles blocking snow removal equipment to be towed and impounded at the vehicle's registered Owner's expense.

3.1 No Person may obstruct, hinder, interfere or impede the Chief Administrative Officer or an Officer in the performance of his/her lawful duty, the exercise of the Chief Administrative Officer or Officer's powers or any Person acting under the direction of the Chief Administrative Officer or an Officer in relation to this Bylaw.

3.16 No Person may violate a Remedial Order directing that Person to Property into compliance with this Bylaw or the ***Municipal Government Act***.

Section 4 – Enforcement

4.1 When making the determination as to whether a particular Property is an Unsightly Property, Nuisance or in an Unsafe Condition, or as to whether the Owner or Occupant of a Property has allowed the Property to become or continue to be a Nuisance, Unsightly Property or be in an Unsafe Condition, the Chief Administrative Officer or Officer may consider:

a. the general condition and state of upkeep and tidiness of other Properties located in the same neighbourhood, community or vicinity;

b. the nature, size, location and permitted use of the Property, and whether or not the Property is located within a predominately residential area;

c. the nature of the Unsightly Property, Unsafe Condition or Nuisance condition complained of, and the period of time that such condition has persisted;

d. whether the Property is undergoing construction, renovation, or demolition, and the period of time that such activity has been ongoing;

e. whether the Owner and/or Occupant of the Property had been previously notified or compliance with the provisions of this Bylaw; and

f. any other circumstances or factors relating to the Property which the Chief Administrative Officer or Officer considers to be relevant to the subject determination.

4.2 An Officer is a designated Officer of the County for the purpose of ensuring that the provisions of the Bylaw are being complied with and an Officer may enter in or upon any Property or structure in accordance with Section 542 of the ***Municipal Government Act***, to carry out an inspection, enforcement, remedial action or other action authorized or required by this Bylaw or the ***Municipal Government Act***.

4.3 No provision of this Bylaw nor any action taken pursuant to any provisions of this Bylaw shall restrict, limit, prevent or preclude the County from pursuing any and all other remedy in relation to contravention of this Bylaw provided by the ***Municipal Government Act***, or any other law of the Province of Alberta.

4.4 It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

Warning Letter

4.5 The Chief Administrative Officer or an Officer may issue a Warning Letter to any Person who contravenes this Bylaw.

4.6 If the Person to whom the Warning Letter was issued does not comply with the Warning Letter, the Chief Administrative Officer or the Officer may issue a Remedial Order to the Person requiring that the Person bring the Property into compliance with this Bylaw and/or the ***Municipal Government Act***.

Remedial Order

4.7 Regardless of whether or not a Warning Letter has been issued, at any time where the Chief Administrative Officer or an Officer finds that a Person is contravening this Bylaw, the Chief Administrative Officer or Officer may issue a Remedial Order to that Person. The Remedial Order may:

a. direct the Person to stop doing something or to change the way in which the Person is doing it,

b. direct the Person to take any action or measures necessary to remedy the contravention of this Bylaw or the ***Municipal Government Act***,

c. state a time within which the Person must comply with the directions set out in the Remedial Order and provide proof of compliance to the Chief Administrative Officer or Officer, and

d. that if the Person does not comply with the directions within a specified time, the County may take the action or measure at the expense of the Person.

4.8 Pursuant to section 4.7 under the Nuisance and Unsightly Property Bylaw and authority under the common law, the Chief Administrative Officer (or designate) reserves the right to amend an issued remedial order, and the amended Remedial Order remains in force and effect until full compliance

Violation Tags

4.9 An Officer is hereby authorized and empowered to issue a Violation Tag to any Person whom the Officer has reasonable and probable ground to believe has contravened any provision of this Bylaw.

4.10 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:

a. The Person's name,

b. The offence,

c. The appropriate voluntary penalty for the offence as in this Bylaw,

d. That the voluntary penalty shall be paid within (10) Days of issuance of the Violation Tag in order to avoid further prosecution; and

e. Any other information as may be required by the Chief Administrative Officer.

4.11 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by the Officer provided, however, that no more than one Violation Tag shall be issued for each Day that the contravention continues.

4.12 Where a Violation Tag has been issued in accordance with this Bylaw, the Person to whom the Violation Tag has been issued may, in lieu of being prosecuted for the offence, pay to the County cashier the penalty within the time frame specified in the Violation Tag.

Service of Warning Letters, Remedial Orders and Violation Tags

4.13 In any case where the Chief Administrative Officer or Officer issues a Warning Letter, Remedial Order or Violation Tag to any Person pursuant to this Bylaw, the Chief Administrative Officer or Officer shall effect such service either:

a. by causing a written copy of the Warning Letter, Remedial Order or Violation Tag to be delivered to and left in a conspicuous place at or about the Property;

b. by causing a written copy of the Warning Letter, Remedial Order or Violation Tag to be mailed or delivered to the last known address of the Owner or Occupant as disclosed in the land registry system established by the ***Land Titles Act*** of Alberta or the County's assessment roll for the Property, as shall appear to the Chief Administrative Officer or Officer to be most appropriate in the circumstances.

VIOLATION TICKET

4.14 Nothing in this Bylaw shall prevent an Officer from immediately issuing a Violation Ticket.

4.15 Where an Officer has reasonable and probable grounds to believe that a Person has violated any provision of this Bylaw, the Officer may commence Court proceedings against such Person by:

a. Issuing a Violation Ticket pursuant to the provisions of the ***Provincial Offences Procedure Act***; or

b. Swearing out an Information and Complaint against the Person pursuant to the provisions of the ***Provincial Offences Procedure Act***; or

4.16 Where an Officer issues a Person a Violation Ticket in accordance with Section 4 of this Bylaw, the Officer may either:

a. Allow the Person to pay the specified penalty for the offence as listed in the Section 7 Penalty Section by including the penalty amount within the Violation Ticket; or

b. Compel the Person to attend Court by way of a Part 2 Violation Ticket, without specified penalty, if the Officer believes that it is in the public interest pursuant to Part 2 of the ***Provincial Offences Procedure Act***.**4.16**

i. A Violation Ticket may be served on such Person who is an individual, either:

A. By delivering it personally to such Person, or

B. By leaving a copy for such Person at his/her last known residence with an individual at the residence who appears to be at least 18 years of age,

and such service shall be adequate for the purposes of this Bylaw.

ii. A Violation Ticket may be served on a Person which is a corporation, either:

A. by sending it by registered mail to the registered office of the corporation, or

B. By delivering it personally to the manager, secretary or other executive officer of the corporation or the Person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address,

and such service shall be adequate for the purposes of this Bylaw.

4.17 Where a contravention of this Bylaw is of a continuing nature, a contravention shall constitute a separate offence in respect of each Day, or part of a Day, on which that offence continues.

Section 5 – General Penalty Section

5.1 The minimum and specified penalty for a violation for any provision of this Bylaw shall be a fine in the amount of $250.00

5.2 If a Person violates the same provision of this Bylaw a second time within a 12 month period of the date of the initial Violation Ticket or Violation Tag being issued the minimum specified penalty for the second such violation shall be a fine in the amount of $500.00.

5.3 Any Person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of $10,000.00 or in default of payment of a fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

Section 6 – Request for Review of Remedial Order by Council

6.1 Any Person who receives aa Remedial Order to remedy a Nuisance Property may, within 14 Days after receipt of the Remedial Order, file a written notice with the Administrator requesting Council to review the Remedial Order in accordance with Section 547(1) (a) of the **Municipal Government Act**.

6.2 Any Person who receives a Remedial Order issued pursuant to Section 546(0.1) of the ***Municipal Government Act*** may, within 7 Days after receipt of the Remedial Order, file a written notice with the Chief Administrative Officer requesting Council to review the Remedial Order in accordance with Section 547(1)(b) of the ***Municipal Government Act***.

6.3 After reviewing the Remedial Order, Council may confirm, vary, substitute or cancel the Remedial Order.

Section 7 – Appeal of Council's Decision to Alberta Court of Queen's Bench

7.1 Any Person affected by a decision of a Council under Section 547 of the ***Municipal Government Act***, may appeal to the Court of Queen's Bench if

a. The procedure required to be followed by this act is not followed, or

b. The decision is patently unreasonable.

7.2 The appeal must be made,

a. In the case of an appeal from Council's decision made pursuant to Section 6.1 of the Bylaw, within 30 Daysof the date Council's decision was served on the Person affected by the decision, and

b. In the case of an appeal from Council's decision made pursuant to Section 6.2 of the Bylaw, within 15 Daysof the date Council's decision was served on the Person affected by the decision.

Section 8 – Registering a Complaint for Violations of this Bylaw

8.1 All complaints concerning violations of this Bylaw shall be in writing and must specify the exact Property location, details of concern, and remedial expectations in relation to the complaint. All complaints shall be directed to the Chief Administrative Officer or Officer.

8.2 Citizen complaints may be received anonymously in respect to Property in an Unsafe Condition.

Section 9 – Recovery of Costs

9.1 Any expenses or costs of any Order or action or measures taken by the County under this Bylaw are an amount owing to the County by the Owner of Property which is in contravention of this Bylaw.

9.2 The expenses and costs incurred by the County in the enforcement of this Bylaw may be collected as a civil debt, or if unpaid after ninety (90) Days from the date the amount is rendered, may be added to the tax roll of the Property which is the subject of any enforcement proceedings under the Bylaw in accordance with the ***Municipal Government Act***.

9.3 If the County sells all or part of the structure or anything that has been removed pursuant to a Remedial Order issued under this Bylaw, the proceeds of the sale shall be used to pay the expenses and costs of the removal of such, and any excess proceeds shall be paid to the Owner of the Property.

Section 10 – Severability

10.1 Each provision of the Bylaw is independent of all other provisions. If any such provision is declared invalid by a Court of jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

Section 11 – Repeal

11.1 Bylaw 2016-51 is hereby rescinded upon the passing and signing of By-law 2020-09

Section 12 – Effective Date

12.1 This Bylaw shall come into force and effect upon it receiving third reading.

KLASSEN MOVED first reading of Bylaw 2020-09, on February 4, 2020, this being a bylaw for the purpose of regulating, controlling and abating Nuisances and remedying Unsafe and Unsightly Property.

Carried.

KOESTER MOVED second reading of Bylaw 2020-09, on February 4, 2020, and it was

Carried.

ARMSTRONG MOVED that permission be granted to hold third and final reading of Bylaw 2020-09.

Carried Unanimously.

IKERT MOVED third and final reading of Bylaw 2020-09, on February 4, 2020, and it was

Carried.

Reeve – Amber Link

Chief Administrative Officer – Brian Henderson