

**VILLAGE OF EMPRESS
BY-LAW NO. 2013-04**

**A BYLAW OF THE VILLAGE OF EMPRESS IN THE PROVINCE OF ALBERTA TO
PROMOTE THE MAINTENANCE OF PROPERTY AND TO REGULATE NUISANCES,
UNSIGHTLY PROPERTY AND CONDITIONS OR SITUATIONS WHICH ARE DANGEROUS
TO PUBLIC HEALTH AND SAFETY**

WHEREAS the *Municipal Government Act* (Alberta) authorizes municipalities to pass Bylaws respecting safety, health and welfare of people and the protection of people and property;

NOW THEREFORE the Council of the Village of Empress, in the Province of Alberta, duly assembled, enacts as follows:

SECTION 1 - SHORT TITLE

- 1.1 This Bylaw shall be known and cited as the "Nuisance and Unsightly Premises Bylaw" of the Village of Empress.

SECTION 2 - INTERPRETATION, PURPOSE AND DEFINITIONS

- 2.1 The purpose of this Bylaw is to promote the maintenance of property within the Village of Empress in a tidy, pleasant and safe condition and to eliminate or minimize nuisances, unsightly property and dangerous or hazardous conditions;

- i.2 In this Bylaw, the definitions set forth in Section (1) of the *Municipal Government Act* (Alberta), as amended, shall apply to this Bylaw and in addition the following definitions (unless the context specifically requires otherwise) shall also apply:

(i) "Act" means the *Municipal Government Act* (Alberta), as amended.

B) "Board" means the Town's Subdivision and Development Appeal Board.

C) "Bylaw Enforcement Officer" means a person appointed as a Bylaw Officer by the Village of Empress and includes any Police Officer, Peace Officer, a member of the Royal Canadian Mounted Police, or the Chief Administrative Officer of the Village of Empress or designate thereof.

D) "Council" means the Municipal Council of the Village of Empress.

E) "Dangerous Condition" means the condition of any property, premises, structure or improvement or any part thereof, which is likely or probably hazardous or dangerous to public health and safety and shall include without limiting the generality of the foregoing:

- i) a refrigerator, ice box or freezer, which is not being used for the storage of perishable goods and is equipped or fitted with a door that cannot be opened from the inside;
- ii) an excavation or hole that is not safeguarded to prevent persons from falling into such excavation or hole.

- F) "Designated Officer"** means a designated Officer of the Town in accordance with the Act.
- G) "Improvement"** means:
- i) a structure;
 - ii) anything attached or secured to a structure that would be transferred without special mention by a transfer or sale of the structure;
 - iii) a designated manufactured home; and
 - iv) machinery and equipment.
- H) "Nuisance"** means any use of or activity upon any property which is offensive to any person, or has or may have a detrimental effect or impact upon any person or other property in the neighborhood and, without limiting the generality of the foregoing, includes the following:
- i) the failure to cut grass or weeds or allowing grass or weeds to exceed 15 cm. in height;
 - ii) the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or sidewalk or roadway clearance;
 - iii) the causing of opaque or dense smoke and permitting such smoke to be emitted into the atmosphere for a period in excess of six minutes in any one hour, or at a point other than the opening to the atmosphere of the flue, stack or chimney, unless specifically authorized by Council;
 - iv) the generation of excessive dust and permitting such dust to escape from the property;
 - v) the use of any pesticide or herbicide which has significant detrimental or environmental effects on surrounding areas;
 - vi) the failure to control or eliminate insect pests harmful to the growth and development of trees and shrubs or any vegetable or plant life;
 - vii) the failure to dispose of dilapidated vehicles or the storage of vehicles in excess of the number of vehicles permitted under the Town's Land Use Bylaw;
 - viii) the failure to dispose of discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires and motor vehicle parts;
 - x) the failure to dispose of any rubbish, garbage or animal excrement accumulated upon any property;
 - xi) the posting or exhibiting of posters, signs, billboards, placards, writings or pictures upon any fence or wall on any property, where the same are accumulated and become in a dilapidated and unsightly condition;

- xii) drawing, painting or writing of any signs or messages upon public or private property, except with the prior permission of the owner of the property.
- I) **"Occupant"** means any person who has lawful possession, resides in or occupies any land, parcel of land or building within the municipal boundaries of the Village of Empress but is not an owner.
- J) **"Owner"** means:
- i) in respect of land, any person who is registered under the *Land Titles Act* (Alberta) as the owner of the fee simple estate in the land or parcel of land within the municipal boundaries of the Village of Empress, or any person shown or designated as the owner pursuant to the current Tax Roll of the Village of Empress ;
 - ii) in respect of property other than land, the person in lawful possession of it.
- K) **"Person"** means an individual, trustee, legal representative, proprietor, body corporate, association or partnership.
- L) **"Premises"** means any land, building or property, whether real or personal.
- M) **"Property"** means the parcel of land and improvement, or a parcel of land and the improvements to it. Property shall also include the adjacent boulevard, and the land directly behind the rear of the property from property line to the mid-point of the laneway or one (1) meter beyond rear property line if abutting a Public Reserve area.
- N) **"Remedial Order"** means an order or direction of a Bylaw Enforcement Officer or designated person issued pursuant to Section 5 of this Bylaw.
- O) **"Structure"** means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land.
- P) **"Town"** means the Village of Empress.
- Q) **"Unightly Condition"** means the condition of any property, premises, structure or improvement, or any part thereof, which is detrimental to the surrounding area, due to its unsightly or untidy condition, as characterized by visual evidence of a lack of general maintenance, repair and upkeep and, without limiting the generality of the foregoing, includes:
- i) specific deterioration of improvements or portions of improvements;
 - ii) broken or missing windows, siding, shingles, shutters, eaves and other building materials on any building or improvement;
 - iii) significant fading, chipping or peeling of painted areas of any building or improvement;

- iv) excessive storage or accumulation on premises of:
 - a) any rubbish, refuse, trash, papers, packages, containers, bottles, cans, sewage, dirt, soil, gravel, rocks, sod, petroleum products, hazardous recyclables, substances and wastes as defined in the *Environmental Protection and Enhancement Act* (Alberta), household dishes and utensils, boxes, cartons, fabrics or household goods;
 - b) the whole or any part of any motor vehicle as defined under the *Traffic Safety Act* (Alberta), as amended, as well as any tractor or implement of husbandry, which has no current license attached to it and in respect of which no registration certificate has been issued for the current year, or which is inoperative by reason of disassembly, age or mechanical condition;
 - c) equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances;
 - d) all forms of garbage, litter and refuse, including but not limited to building materials, tires, boxes, scrap material, dilapidated furniture, appliances, machinery, machinery parts, or other similar materials or items.

R. "Vehicle" means:

- (i) a vehicle propelled by any power other than muscular power, or
- (ii) a moped, a power bicycle, an aircraft, an implement of husbandry or a motor vehicle that runs only on rails, but does not include a bicycle;

SECTION 3 • NUISANCES, UNSIGHTLY CONDITIONS AND DANGEROUS CONDITIONS • PROHIBITION

- 3.1 No Person, being the Owner or Occupant of any Property or Premises within the Town, shall permit such Property or Premises, or any activity upon such Property or Premises, to be or remain a Nuisance.
- 3.2 No Person shall cause or permit or undertake any activity upon any Town Property which is a Nuisance.
- 3.3 No Person, being the Owner or Occupant of any Property or Premises within the Town, shall permit such Property or Premises to be or remain in an Unsightly Condition.
- 3.4 No Person, being the Owner or Occupant of any Property or Premises within the Town, shall permit such Property or Premises to be or remain in a Dangerous Condition.

SECTION 4 - INSPECTION

- 4.1 A Bylaw Enforcement Officer or a Designated Officer is hereby authorized to enter any Property or Premises to inspect for conditions that contravene or fail to comply with any provisions of this Bylaw.
- 4.2 Any Bylaw Enforcement Officer or Designated Officer or any other Person authorized by Council to do so, who enters upon Property or Premises for the purposes of an inspection or to remedy a condition which constitutes a contravention of this Bylaw, shall be deemed to have the authorization of Council and shall not incur any liability therefore.

SECTION 5 - REMEDIAL ORDER

- 5.1 If a Bylaw Enforcement Officer or Designated Officer considers any Property or Premises to be in contravention of any provision of this Bylaw, the Bylaw Enforcement Officer or Designated Officer shall cause a Remedial Order to be issued and served upon the Owner or Occupant of such Property or Premises, directing the Owner or Occupant to remedy the contravention ("Remedial Order").
- 5.2 Every Remedial Order shall be in writing and contain the following:
- A) indicate the Person to whom it is directed;
 - B) identify the Property or Premises to which the Remedial Order relates by municipal address or legal description;
 - C) identify the date that it is issued;
 - D) identify or state how the Property or Premises fails to comply with this Bylaw;
 - E) identify the specific provisions of the Bylaw that the Property or Premises contravenes;
 - F) identify, with reasonable particulars, the nature of the remedial action required to be taken to bring the Property or Premises into compliance;
 - G) identify the time within which the remedial action must be complete;
 - H) indicate that if the remedial action is not completed within the specified time, the Town may take whatever actions or measures are necessary to remedy the contravention;
 - I) indicate that the expenses and costs of any action or measures taken by the Town under this Section will be an amount owing to the Town by the Person to whom the Remedial Order is directed;
 - J) indicate 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 within a specified time;
 - K) indicate that an Appeal lies from the Remedial Order to the Board, if a Notice of Appeal is filed, in writing, with the Town within a certain specified time following receipt of the Remedial Order.

SECTION 6 - SERVICE OF DOCUMENT, ORDER OR NOTICE

- 6.1 Service of any document, order or notice required to be served pursuant to this Bylaw, may be served either:
- A) personally upon the Person, Owner or Occupant required to be served;
 - B) by prepaid, registered mail at the address of:
 - i) the Owner, as shown on the Tax Roll;
 - ii) the Person or Occupant, other than the Owner, at the last known mailing address;
 - C) in the case of a corporation, personally upon any director or officer of the corporation or, alternatively, by prepaid, registered mail at the address of the registered office of the corporation.
- 6.2 If service is effected by prepaid, registered mail, service will be deemed to have been received five days following the mailing of the document, order or notice.
- 6.3 A Remedial Order issued pursuant to this Bylaw may be served personally upon the Owner or Occupant of the Property or Premises to which it relates, or may be left with a Person apparently over the age of eighteen years at the Property or Premises.
- 6.4 If, in the opinion of a Bylaw Enforcement Officer or Designated Officer, service of the Remedial Order cannot be reasonably effected, or if the Bylaw Enforcement Officer or Designated Officer believes that the Owner or Occupant of the Property or Premises is evading service, the Officer may post the Remedial Order in a conspicuous place on the Property or Premises to which the Remedial Order relates, or on the private dwelling place of the Owner of the Property or Premises, as registered at the Land Titles Office or on the municipal Tax Roll of the Property or Premises, and the Remedial Order shall be deemed to have been served upon the expiry of three days after the Remedial Order is posted.
- 6.5 Every person who fails to comply with the Remedial Order issued pursuant to this Bylaw, or fails to comply with the Order of the Board following an Appeal, commits an offence.

SECTION 7 - REVIEW OF REMEDIAL ORDER

- 7.1 Council hereby delegates its authority to review Remedial Orders, pursuant to Section 547 of the Act, to the Board.
- 7.2 The Owner or Occupant to whom a Remedial Order is directed may seek a review of the Remedial Order by filing a Notice of Appeal, in writing:
- A) within fourteen days of the receipt of the Remedial Order relating to a Nuisance;
 - B) within seven days of the receipt of the Remedial Order relating to an Unsightly or Dangerous Condition;
 - C) or such longer period as may be specified in the Remedial Order.

- 7.3 A Notice of Appeal must be in writing, signed by the Owner or Occupant or their authorized agent and shall state:
- A) the name of the Owner or Occupant;
 - B) the municipal address or legal description of the Property or Premises to which the Remedial Order being appealed relates to;
 - C) the nature or grounds for the Appeal;
 - D) the address at which documents relating to the Appeal can be delivered.
- 7.4 A Notice of Appeal shall be delivered personally, or be sent by prepaid, registered mail to the Town, within the time specified in the Bylaw or in the Remedial Order.
- 7.5 A Notice of Appeal shall be accompanied by a deposit in the amount specified in Schedule **A-1**.
- 7.6 The deposit made under subsection 7.5 shall be refunded if the appellant is successful in their Appeal.
- 7.7 The Board shall hear Appeals arising from Remedial Orders pursuant to this Bylaw.
- 7.8 The Board shall adopt a set of rules and procedures with respect to the conduct of the Appeal Hearing in relation to an Appeal of the Remedial Order and shall conduct a Hearing and determine the Appeal within a reasonable period of time.
- 7.9 Following the Hearing of the Appeal, the Board may confirm, vary, substitute or cancel the Remedial Order.
- 7.10 A decision of the Board delivered orally at the time of the Hearing of the Appeal, shall be deemed to be a decision served pursuant to Section 548 of the Act.

SECTION 8 - GENERAL PENALTY PROVISIONS

- 8.1 Any Person who contravenes any provision of this Bylaw by:
- A) doing any act or thing which the Person is prohibited from doing; or
 - B) failing to do any act or thing which the Person is required to do;
- is guilty of an offence.
- 8.2 Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$5,000.00 or, in default of payment of a fine imposed, to a period of imprisonment not exceeding six months.

SECTION 9- VIOLATION TICKETS AND PENALTIES

- 9.1 Where the Bylaw Enforcement Officer or Designated Officer believes that a Person has contravened any provision of this Bylaw, the Officer may commence proceedings against the Person by issue of a violation ticket pursuant to the *Provincial Offences Procedures Act* (Alberta).
- 9.2 Where there is a specified penalty listed for an offence in Schedule "A" of this Bylaw, the amount is the specified penalty for the offence.
- 9.3 Where there is a specified penalty listed for an offence in Schedule "A" of this Bylaw, the amount is the minimum penalty for the offence.
- 9.4 Notwithstanding the specified or minimum penalties set out in Schedule "A" of this Bylaw:
- A) if a Person is convicted twice of the same provision of this Bylaw within a twenty-four month period, the minimum penalty for the second conviction shall be the amount of the specified penalty for a first offence; and
 - B) if a Person is convicted three or more times of the same provision of this Bylaw within a twenty-four month period, the minimum penalty for the third and subsequent convictions shall be double the amount of the specified penalty for such first offence.
- 9.5 This Section shall not prevent any Bylaw Enforcement Officer or Designated Officer from issuing a violation ticket requiring a Court appearance of the Person, pursuant to the provisions of the *Provincial Offences Procedures Act* (Alberta), or from laying an Information in lieu of issuing a violation ticket.
- 9.6 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which that Person is liable under the provisions of this Bylaw.

SECTION 10- MISCELLANEOUS

- 10.1 Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial law or regulation, or other Bylaw, or any requirements of any lawful permit, order or license.
- 10.2 Where this Bylaw refers to another Act, Bylaw, regulation or agency, it includes reference to any Act, Bylaw, regulation or agency that may be substituted therefor.
- 10.3 Every provision of this Bylaw is independent of 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 valid and enforceable.
- 10.4 The Town is not required to enforce every breach or contravention of this Bylaw. In deciding whether or not to enforce the Bylaw, the Town may take into account any practical concerns or considerations, including but not limited to the nature and extent of the breach or contravention, any financial or budgetary considerations and the availability of personnel or human resources.

10.5 All Schedules attached to this Bylaw shall form part of this Bylaw.

10.6 Upon coming into force of this Bylaw, the following Bylaw(s) shall be repealed:

- Bylaw 16-64 the Nuisance and Unsightly Premises Bylaw
- Regulations 1 a - c in Bylaw 1-2009

READ a first time the 18th day of July, 2013.

READ a second time the 15th day of August, 2013.

READ a third time this the 15th day of August, 2013.

SIGNED and dated this 15th day of August, 2013.

Chad Van Dam

MAYOR

Debbie Ross

CAO

SCHEDULE "A"

Specified and Minimum Penalties

Section	Offence	Specified Penalty
3.1	Permitting or allowing a Nuisance on Property or Premises	\$ 250.00
3.2	Causing or permitting a Nuisance on Town Property	\$ 250.00
3.3	Permitting or allowing an Unsightly Condition on Property or Premises	\$ 250.00
3.4	Permitting or allowing a Dangerous Condition on Property or Premises	\$ 250.00
6.5	Failing to comply with a Remedial Order or failing to comply with a Remedial Order following an Appeal	\$ 500.00

Appeal Amount

7.5	The amount required to be submitted with a Notice of Appeal (Deposit)	\$ 50.00
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