

TOWN OF BASHAW

BY-LAW 680-2004

BY-LAW NO 680-2004 BEING A BY-LAW OF THE TOWN OF BASHAW, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ESTABLISHMENT OF A NUISANCE AND UNTIDY OR UNSIGHTLY PREMISES BY-LAW.

Pursuant to the provisions of the Municipal Government Act, Chapter M-26, RSA 2000 and amendments thereto:

WHEREAS Section 7 (a) of the Municipal Government Act allows a Council to pass By-laws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS Section 545 grants Council the authority to order to remedy contraventions;

AND WHEREAS Section 546 grants Council the authority to order to remedy dangers and unsightly property;

AND WHEREAS Section 549 grants Council the authority to take whatever actions or measures are necessary to remedy contraventions;

AND WHEREAS Section 550 grants Council the authority to take whatever actions or measures are necessary to eliminate dangers and unsightly property;

AND WHEREAS Council deems it expedient and proper to regulate and control nuisances and untidy or unsightly premises within the municipality;

NOW THEREFORE The Council of the Town of Bashaw, in the Province of Alberta, duly assembled, HEREBY ENACTS AS FOLLOWS:

TITLE

This by-law may be cited as the "Nuisance and Untidy or Unsightly Property By-law".

1. DEFINITIONS

- (a) BY-LAW ENFORCEMENT OFFICER shall mean a person appointed as such by Council pursuant to the Municipal Government Act.
- (b) TOWN shall mean the Town of Bashaw, a Municipal corporation of the Province of Alberta, and whether the context so requires means the area contained within the corporate boundaries of the said municipality.
- (c) COUNCIL shall mean the Municipal Council of the Town of Bashaw.
- (d) DAYLIGHT HOURS shall mean sunrise to sunset according to local time regardless of the day of the week.

- (e) DERELICT VEHICLE shall mean any abandoned vehicle, any unroadworthy vehicle, a dilapidated vehicle, any vehicle used for racing, any stripped vehicle or any part of a vehicle.
- (f) NUISANCE shall mean any condition on or around property that is untidy, unsightly, obnoxious, offensive, irritating, annoying, endangers the health, peace or safety of others or interferes with the use or enjoyment of other property without limiting the generality of the foregoing, a nuisance shall include but no be limited to:
- (i) Uncut grass or weeds on property which is taller than 20 centimetres (8 inches).
 - (ii) Trees or shrubs which overhang town roadways or sidewalks and interfere with town workers, public utilities or the passage of vehicles or pedestrians.
 - (iii) Dense or opaque smoke or dust emitted into the atmosphere for more than 6 minutes per hour.
 - (iv) Any compost heap or other materials which produce an offensive smell.
 - (v) Any material including garbage, building materials, tires, boxes or machine parts which when visible contribute to an unsightly condition.
 - (vi) Structures whose exterior show signs of significant physical deterioration.
 - (vii) Any condition on a property which contravenes the Land Use By-Law.
- (g) OCCUPIER shall include any person who currently resides or is found residing on the property.
- (h) OWNER shall include any person who:
- (i) currently exercises the powers and authority of ownership of the property.
 - (ii) is registered as owner of the property under the Land Titles Act.
 - (iii) has purchased or otherwise acquired the property, whether directly from a previous owner or from another purchaser and has not yet registered ownership.
 - (iv) is the person listed as the owner of the property on the current tax assessment account.
- (i) PERSON shall include a corporation, Company, partnership, heirs, executors, administrators or other legal representation of a person, who is the owner, agent, lessee or occupier of any land or premises within the Town.

- (j) PROPERTY shall mean any land, building or premises within the Town of Bashaw.
- (k) VEHICLE shall mean any device in, on or by which a person or thing may be transported on a highway propelled by any power other than muscular power.

2. No person shall:

- (a) permit the land or premises, which is owned or occupied by them to be or to remain a nuisance, untidy or unsightly,
- (b) permit any building, structure, excavation, depression, drain, watercourse, pond or other matter or thing upon property which is owned or occupied by them to be or remain dangerous to public safety or health.
- (c) unless the land is zoned for business purposes, cause or permit derelict vehicles or other wrecked vehicles to be stored externally on the property which is owned or occupied by them.
- (d) permit the external storage of more than one (1) vehicle not bearing valid licence plates in a residential area.

2.1 Notwithstanding the provisions of Section 2, Elm trees should only be pruned between October and February, and Birch trees should only be pruned between June and August under the direction of the Town Public Works Department. This section shall not apply to situations where the pruning of a tree is of absolute necessity.

- 3. The Town is not in any way bound or required to enforce this By-Law where practical concerns or consideration make it impracticable or undesirable for the Town to take any enforcement action.
- 4. Council hereby authorizes any By-Law Enforcement Officer, any Peace Officer, the Fire Chief or his designate, any Building Inspector, or any other person authorized in writing by the Chief Administrative Officer to enter any lands, buildings or premises, not including a private dwelling house, during daylight hours to inspect for any conditions that may constitute a nuisance or contravene or fail to comply with the provisions of this By-Law.
- 5. Every person shall cut the grass on a boulevard and maintain trees and shrubs which abuts or flanks a property occupied or owned by them.
- 6. Council or any By-Law Enforcement Officer shall have the authority to direct a person, to remedy, in accordance with the direction any condition on the land that constitutes a contravention of this By-Law. The said direction may include, but is not limited to:

- (a) removing any materials,
 - (b) screening any part of the property, including specifying the type and size of screen,
 - (c) cleaning, stacking, storing or covering any material,
 - (d) cutting grass or weeds,
 - (e) pruning trees or shrubs, or
 - (f) removal or demolition of a structure and the levelling of the site.
7. The direction referred to in section 6 will be considered properly served if:
- (a) it is personally delivered to either the owner or occupant of the property,
 - (b) it is mailed by registered mail to the last known address of the owner or occupant of the property, or
 - (c) it is posted to the door of a building or in any other conspicuous place on the property.
8. An owner who considers themselves aggrieved by an order or direction hereunder may, within fourteen (14) days of the date upon which service of the order or direction was made, appeal that order or direction to Council by written notice received by the Chief Administrative Officer.
9. After considering an appeal, Council may confirm the direction or, for any reason may set aside, vary or modify the direction.
10. If an owner considers themselves aggrieved by the decision under section 9 hereof, they may, within thirty (30) days of the date upon which service of the decision was made, appeal by originating notice of motion to the Court of Queens Bench.
11. Any person who:
- (a) fails to remedy in such manner as Council or a By-Law Enforcement Officer has directed, any condition to their land that constitutes a nuisance or,
 - (b) who contravenes or fails to comply with any of the provisions of this By-Law is guilty of an offence and is liable upon summary conviction to a fine of not less than two hundred dollars (\$200.00) and not more than twenty five hundred dollars (\$2,500.00). In default of payment of such fine is liable to imprisonment for a term not to exceed 6 months.
 - (c) Notwithstanding subsection (b), in any case where a person contravenes any provision of this BY-Law referred to in Schedule "A", a By-Law Enforcement Officer may issue a violation ticket in the amount specified in Schedule "A" attached to and forming part of this By-Law.

12. Whenever Council or a By-Law Enforcement Officer directs that a person shall do any matter or thing, then in default of its being done the person shall be liable to prosecution and it shall be no defence for any person so prosecuted to allege that any other person is responsible for such default.

13. Notwithstanding a conviction of an offence pursuant to Section 11, in any case where a person fails, neglects or refuses to remedy any condition directed to be remedied, Council or a By-Law Enforcement Officer may cause such work to be done as Council or the By-Law Enforcement Officer deems necessary to remedy it, and may charge the cost of the work done, including administration charges referred to in Schedule "B" attached to and forming part of this By-Law, to remedy the condition to the owner, agent, lessee or occupier concerned and in default of such payment may

(a) recover the same as a debt due to the Town, or

(b) charge the same against the land concerned as taxes due and owing in respect of that land and recover the same as such.

14. In any case where work is carried out by the Town and objects or materials are removed from the property, the Town may destroy or otherwise dispose of the said material immediately following the completion of the work.

15. The Town, Council, any By-Law Enforcement Officer who inspects property or any person who performs any work on behalf of the Town to remedy a nuisance is not liable for any damages caused by the inspection, the work, or disposing of anything in order to complete the work set out in the direction.

16. By-Law 373-76 is repealed.

17. This By-Law shall come into full force and effect upon the final reading.

READ a First time this 5th day of October A.D. 2004.

MAYOR

READ a Second time this 5th day of October A.D. 2004.

TOWN MANAGER

READ a Third time and finally passed this 5th day of October A.D. 2004.

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SCHEDULE "A"

SCHEDULE OF FINES

<u>OFFENCE</u>	<u>SECTION</u>	<u>FINE</u>
Permit land or premises to be a nuisance/unsightly	2 (a)	\$100 (first offence) \$200 (second offence)
Permit building, etc, to be dangerous	2 (b)	\$100 (first offence) \$200 (second offence)
Store derelict vehicles on residential property	2 (c)	\$100 (first offence) \$200 (second offence)
Fail to cut grass/maintain trees on boulevard	5	\$50 (first offence) \$100 (second offence)
Fail to comply with direction (third offence)	11(a)	\$250 (first offence) \$500 (subsequent offence)

Note: An offence shall be considered a subsequent offence if a person is charged with the same offence within one year of the previous charge.

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SCHEDULE "B"

Administration Charges for Section 13

\$50.00 or 20% of the total cost of work done, whichever is the greater.