

BYLAW # 1475

BYLAW # 1475 OF THE TOWN OF INNISFAIL, IN THE PROVINCE OF ALBERTA, RESPECTING NUISANCES AND UNTIDY AND UNSIGHTLY PREMISES.

WHEREAS pursuant to the MUNICIPAL GOVERNMENT ACT, Revised Statutes of Alberta 2000 Chapter M26 as amended, a Council may pass bylaws for preventing nuisances generally, and compelling the abatement of nuisances generally, and regulating untidy and unsightly premises; and

WHEREAS Council of the Town of Innisfail deems it expedient to pass a Bylaw in connection therewith.

NOW THEREFORE, Council of the Town of Innisfail, in the Province of Alberta, duly assembled, enacts:

CITATIONS

1. This Bylaw may be cited as the “INNISFAIL NUISANCE BYLAW.”

DEFINITIONS

2. In this Bylaw:

- (a) “Council” shall mean a group of municipally elected officials that formulate a governing body;
- (b) “Fence” includes a privately-built fence and a developer-built community screening fence;
- (c) “Fire Chief” shall mean the individual who holds that position in the Town at any given time and includes any person authorized to act for and in the name of that individual;
- (d) “Good Repair” shall mean a condition where something is free from:
 - i. significant damage;
 - ii. peeling surfaces;
 - iii. broken, missing or fallen parts;
 - iv. rot or other significant deterioration;
 - v. openings which are not secured against trespassers or infiltration or air and precipitation; or
 - vi. other visual evidence of a lack of general maintenance.
- (e) “Graffiti” shall mean words, figures, letters or drawings scribbled, scratched or sprayed on a surface without the consent of the owner of the Premises on which they are placed.
- (f) “Medical Officer of Health” shall mean the individual who holds that position Alberta Health Services at any given time and includes any person authorized to act for and in the name of that individual;
- (g) “Nuisance” shall mean any matter or thing determined by Council to be a nuisance and includes any activity or thing which arises from unreasonable, unwarranted or unlawful use by a person of his own property, so as to produce a material annoyance, inconvenience or discomfort to the public and anything that by act, or by failure to perform a legal duty, intentionally causes or permits a condition to exist which injures or endangers the public health, safety or welfare;
- (h) “Officer” includes a Bylaw Enforcement Officer and a Peace Officer;

- (i) “Person” shall mean a corporation, other legal entities and an individual having charge or control of a Premises;
 - (j) “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;
 - (k) “Remedial Order” means an order written pursuant to Section 545 of the *Municipal Government Act*;
 - (l) “Structure” includes any building, retaining wall, scaffolding, garbage container, trailer, mobile home, shed or portable shack;
 - (m) “Untidy” or “Unsightly” shall mean any matter or thing determined by Council to be untidy or unsightly so as to constitute failure to conform to external, generally accepted community standards;
 - (n) “Weeds” the definitions found in the *Weed Control Act* an Alberta Provincial Statute shall apply to this Bylaw.
3. Words importing the masculine gender only, include the feminine gender whenever the context so requires and vice versa.
 4. Words importing the singular shall include the plural or vice versa whenever the context so requires.
 5. 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.
 6. 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.
 7. 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 therefore.
 8. 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.
 9. All schedules attached to this Bylaw shall form part of this Bylaw.

REMEDIAL ORDERS

- 10 (1) 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 Town 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 Town under this Section are an amount owing to the Town 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 Town Council, if a notice of appeal is filed in writing with the Town Clerk within fourteen days of the receipt of the Remedial Order.
- (2) Every Remedial Order written with respect to provisions of another bylaw must contain the same information as set out in subsection (1) as modified as necessary in the context of that bylaw.
 - (3) 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.
 - (4) 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.
 - (5) 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

- 11. (1) A Person to whom a Remedial Order is directed may seek a review of the Remedial Order by filing an appeal in writing with the Town Clerk within 14 days of the receipt of the Remedial Order.
- (2) An appeal filed pursuant to this Section must state the name of the appellant, the municipal address of the property to which the Remedial Order being appealed from relates, a day time telephone contact number at which the appellant may be reached, and an address at which documents in relation to the appeal may be delivered.
- (3) A decision of the Town Council delivered orally is a decision served pursuant to Section 548 of the Municipal Government Act.

ENFORCEMENT

General Penalty Provision

- 12. (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 the Person is required to do;
 is guilty of an offence.
- (2) Any Person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to fine not exceeding \$10,000.00 and in default of payment of any fine imposed, to a period of imprisonment not exceeding six (6) months.

Violation Tickets and Penalties

- 13. (1) 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 Offences Procedures Act*, R.S.A. 2000 c. P-24.

- (2) Where there is a specified penalty listed for an offence in Schedule 'A' to this Bylaw, that amount is the specified penalty for the offence.
- (3) Where there is a minimum penalty listed for an offence in Schedule 'A' to this Bylaw, that amount is the minimum penalty for the offence.
- (4) Notwithstanding specified and minimum penalties set out in Schedule 'A' to this Bylaw:
 - (a) if a Person is convicted twice of the same provision of this Bylaw within a 24 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 24 month period, the minimum penalty for the third and subsequent convictions shall be double the amount of the specified penalty for a first offence.
- (5) This Section shall not prevent any Officer from issuing a violation ticket requiring a court appearance of the defendant, pursuant to the provisions of the *Provincial Offences Procedures Act*, R.S.A. 2000 c. P-24, or from laying an information in lieu of issuing a violation ticket.
- (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 or any other bylaw.

PROHIBITION OF A NUISANCE

14. No person being the owner, agent, lessee, or occupier of any land or premises within the Town, shall permit the land or premises of which such person is the owner, agent, lessee, or occupier, to be or to remain a Nuisance or to be or to remain Untidy and Unsightly, that may tend to adversely affect the amenities of the surrounding area.

NUISANCE OR DANGER TO PUBLIC SAFETY OR HEALTH

15. No person being the owner, agent, lessee, or occupier, of any land or premises within the Town, shall permit any building, structure, or erection of any kind whatsoever, or any excavation, depression, drain, ditch, water-course, pond, surface water, refuse or other matter or thing upon any private land, street or road, or in or about any building or structure, of which such person is the owner, agent, lessee or occupier to be or to remain a Nuisance and dangerous to the public safety or health.

ACCUMULATION OF MATERIALS

16. (1) No owner or occupier of a Premises, unless allowed by another Bylaw, permit or enactment shall allow on the Premises, the accumulation of:
 - (a) any material that creates unpleasant odors;
 - (b) any material likely to attract pests; or
 - (c) animal remains, parts of animal remains, or animal feces.
- (2) No owner or occupier of a Premises shall allow the open or exposed storage on the premises of any industrial fluid, including engine oil, brake fluid or antifreeze.
- (3) No owner or occupier of a Premises shall allow the following to accumulate on the Premises such that the accumulation is visible to a Person viewing from outside the property:
 - (a) loose garbage;

- (b) bottles, cans, boxes or packaging materials;
- (c) household furniture or other household goods;
- (d) vehicle or vehicle parts;
- (e) parts of or disassembled machinery, equipment or appliances; and
- (f) yard waste, including grass, tree and hedge cuttings.

APPLIANCES

- 17. (1) No owner or occupier of a Premises shall allow a refrigerator or freezer to remain on the Premises without first ensuring that the hinges and latches, or lid or doors of the unit have been removed.
- (2) No owner or occupier of a Premises shall allow any appliance to remain on the Premises such that the appliance is visible to a Person viewing from outside the property.
- (3) Notwithstanding subsections (1) and (2), it shall not be an offence for an owner or occupier of a Premises to allow a refrigerator on a Premises:
 - (a) if the refrigerator is not visible to a Person viewing from outside the property; and
 - (b) the refrigerator remains locked at all times with a padlock and key or similar device.
- (4) Commercial businesses, with a valid business license for appliance sales, may obtain a storage permit from the Development Officer.

TREES OR SHRUBS

- 18. If a tree or shrub, whether on private property or otherwise, in any way interferes with or endangers the lines, poles, conduits, pipes, sewers, or other works of a utility of the Town or of any other public utility, or infringe upon road sight lines as defined in the current Land-use Bylaw, an Officer may direct the owner, agent, lessee or occupier of the property on which such tree or shrub stands, to remove or prune the tree or shrub, or to take such steps as an Officer may deem necessary to alleviate the interference with or danger to such works; and failing to comply with such directive constitutes an offense.

EXHAUST and DUST

- 19. No owner or occupier of a Premises or vehicle shall engage in an activity likely to allow exhaust, dust or other airborne matter likely to disturb another Person, to escape the Premises or vehicle without taking precautions to ensure that the exhaust, dust or other airborne matter does not escape.

GRAFFITI PREVENTION AND ABATEMENT

- 20. (1) No person shall create or apply Graffiti.
- (2) Every owner or occupier of a Premises shall ensure that Graffiti placed on their premises is removed, painted over or otherwise permanently blocked from public view within a time frame specified by the Town’s Enforcement Officer.
- (3) In a prosecution for this offence, if the defendant seeks to rely on the Graffiti being made with the consent of the owner of the Premises, the onus of proving the owner’s consent rests with the Person relying on consent.

WATER, EAVESTROUGHS and DOWNSPOUTS

- 21. (1) No owner or occupier of a Premises shall allow a flow of water from a hose or similar device on the Premises to be directed towards an adjacent Premises if it is

likely that the water from the hose or similar device will enter the adjacent Premises.

- (2) An owner or occupier of a Premises shall direct any rainwater downspout or eavestrough on the Premises towards:
 - (a) the front of the Premises;
 - (b) the rear of the Premises;
 - (c) a sideyard which does not abut another Premises; or
 - (d) a sideyard which abuts another Premises only if there is a minimum of 6 (six) metres of permeable ground between the outfall of the downspout or eavestrough and the adjacent Premises.
- (3) Notwithstanding subsection (2), no owner or occupier of a Premises shall allow a rainwater downspout or eavestrough to be directed towards a neighboring Premises if it is likely that the water from the downspout or eavestrough will enter the adjacent Premises.

FLYERS and DEBRIS

22. (1) An owner or occupier of a Premises shall ensure that articles such as papers, flyers and loose debris are collected and contained on the Premises so that they do not escape onto adjacent or other neighboring properties.
- (2) An owner or occupier of a Premises is responsible for papers and flyers on their Premises regardless of whether they solicited for the delivery of these papers or flyers.
- (3) No Person shall deposit commercial flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a dwelling unit indicating that such material is not wanted.
- (4) No Person responsible for the operation of a business engaged in the distribution of commercial flyers shall allow the deposit of their commercial flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a dwelling unit, indicating that such material is not wanted.

GRASS

23. (1) No owner or occupier of a Premises shall allow grass or grasses on the Premises to exceed a height of 15 centimetres, or one third or more of the Premises be infested with weeds.
- (2) This Section shall not apply to farmland or open natural spaces.

EXCAVATIONS AND PONDING WATER

24. (1) No owner or occupier of a Premises shall allow an excavation, drain, ditch or other depression in the ground to become or remain a danger to public safety.
- (2) If, in the opinion of the Officer, a water-course, pond or other surface water becomes or remains a nuisance or poses a danger to public safety, the Officer may declare the water-course, pond or other surface water a nuisance and require the owner or occupier of the Premises to eliminate the nuisance or danger.

OBLIGATION TO MAINTAIN

25. (1) No owner or occupier of a Premises shall allow a Structure or Fence to become a safety hazard.
- (2) Every owner or occupier of a Premises shall ensure the following are maintained in Good Repair:

- (a) Fences and their structural members;
- (b) Structures and their structural members, including:
 - i. Foundations and foundation walls;
 - ii. Exterior walls and their components;
 - iii. Roofs;
 - iv. Windows and their casings;
 - v. Doors and their frames;
 - vi. Protective or decorative finishes of all exterior surfaces of a Structure or Fence; and
 - vii. Exterior stairs, landings, porches, balconies and decks.

AUTHORIZED PERSONNEL MAY ENTER ON PROPERTY

26. The Medical Officer of Health, the Chief Administrative Officer, the Fire Chief, Officer, and any employees thereof are hereby authorized to enter onto any lands, or into buildings, or premises between the hours of eight (8:00 A.M.) o'clock in the morning and five (5:00 p.m..) o'clock in the afternoon of any weekday to inspect for conditions that may constitute a Nuisance or contravene or fail to comply with the provisions of the Bylaw.

VEHICLE OWNER LIABLE

- 27. (1) If a vehicle is involved in an offence referred to in this Bylaw, the owner of that vehicle is guilty of an offence.
- (2) Subsection (1) does not apply if the owner of that vehicle satisfies the Court that the owner was not in control of the vehicle and that the Person having control of the vehicle at the time of the offence had control of the vehicle without the owners express or implied consent.

REPEAL

28. Bylaw No. 1434 is hereby repealed upon this Bylaw coming into effect.

THIS BYLAW COMES INTO EFFECT ON THE DATE OF FINAL PASSING.

READ A FIRST TIME IN OPEN COUNCIL THIS _____ DAY OF _____ 2009.

READ A SECOND TIME IN OPEN COUNCIL THIS _____ DAY OF _____ 2009.

READ A THIRD TIME IN OPEN COUNCIL AND FINALLY PASSED THIS _____ DAY OF _____ 2009.

MAYOR

CHIEF ADMINISTRATIVE OFFICER

**SCHEDULE “A”
SPECIFIED AND MINIMUM PENALTIES**

SECTION	OFFENCE	MINIMUM PENALTY	SPECIFIED PENALTY
10 (5)	Failure to comply with Remedial Order	\$250.00	\$500.00
14	Prohibition of nuisance	\$250.00	\$500.00
15	Danger to public safety or health	\$250.00	\$500.00
16 (1)	Accumulation of offensive material	\$100.00	\$300.00
16 (2)	Exposed storage of harmful fluids	\$100.00	\$200.00
16 (3)	Accumulation of material visible from off property	\$50.00	\$200.00
17 (1)	Refrigerator improperly stored	\$100.00	\$300.00
17 (2)	Appliance storage	\$50.00	\$100.00
18	Fail to prune trees or shrubs	\$100.00	\$200.00
19	Smoke and dust escaping premises	\$100.00	\$300.00
20 (1)	Person applying graffiti	\$2500.00	\$5000.00
20 (2)	Failure to remove graffiti	\$50.00	\$150.00
21 (1)	Direct water flow to adjoining premises	\$100.00	\$300.00
21 (2)	Improper direction of downspout	\$100.00	\$300.00
22 (1)	Flyers / debris escaping premises	\$100.00	\$300.00
22 (3)	Deposit commercial flyer contrary to sign	\$100.00	\$300.00
22 (4)	Person responsible allow deposit of commercial flyer contrary to sign	\$100.00	\$300.00
23 (1)	Allowing grass on premises to exceed 15 cm height or one third or more of premises infested with weeds	\$100.00	\$300.00
24 (1)	Hazardous excavation, drain, ditch or depression	\$100.00	\$300.00
25 (1)	Accessory building structure or fence safety hazard	\$100.00	\$300.00
25 (2)	Accessory building, structure or fence unsightly	\$100.00	\$300.00