

BYLAW 2006-08

A BYLAW OF THE VILLAGE OF THORSBY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING, CONTROLLING AND ABATING NUISANCES, NOISE, AND DANGEROUS AND UNSIGHTLY PREMISES.

The Council of the Village of Thorsby, in the Province of Alberta, enacts the following:

SECTION 1 - SHORT TITLE

- 1.1 This Bylaw may be cited as the Village of Thorsby “Nuisance Bylaw”.

SECTION 2 - PURPOSE AND DEFINITIONS

- 2.1 The purpose of this Bylaw is to promote the maintenance of property within the Village and tidy and safe living conditions, and to minimize nuisance.
- 2.2 “Abandoned Equipment” means equipment or machinery, which has been rendered inoperative by reason of its disassembly, damage, age or the deterioration of its mechanical condition, and includes, but is not limited to, any household appliances stored outside of a residence or other Structure, regardless of whether the household appliance is in an inoperative condition.
- 2.3 “Abandoned Vehicle” means the entirety or any portion of any Motor Vehicle, where that vehicle:
- 2.3.1 is in a rusted, wholly or partially wrecked, dismantled, or inoperative condition, and is not located within a Structure or located on Property such that it can be concealed from view; or
 - 2.3.2 has no current license plate attached to it and, in respect of which, no registration certificate has been issued for the current year; and
 - 2.3.3 is inoperative by reason of missing or disassembled parts or equipment, and is not located within a Structure or located on Property such that it can be concealed from view.
- 2.4 “Bylaw Enforcement Officer” means a Bylaw Enforcement Officer appointed by the Village pursuant to the *Municipal Government Act*, to enforce the Village’s Bylaws, and includes a member of the Royal Canadian Mounted Police and any Special Constable employed by the Village.
- 2.5 “Council” means the Municipal Council for the Village of Thorsby.
- 2.6 “Designated Officer” means a Bylaw Enforcement Officer, or any other Person who has been appointed by Council from time to time, for the purpose of inspections or enforcement pursuant to this Bylaw.
- 2.7 “Motor Vehicle” means a motor vehicle, as defined in the *Traffic Safety Act*.
- 2.8 “Nuisance” means a condition, or the use of, or an emission from Property which, in the opinion of a Designated Officer, or the chief administrative officer, constitutes an unreasonable interference with the use and enjoyment of other private or public Property, and includes, without limiting the foregoing, Noise or an Unsightly Premises.
- 2.9 “Noise” means any sound which, in the opinion of a Bylaw Enforcement Officer, having regard for all circumstances, including the time of day, location, nature of the activity generating the sound and the duration, is likely to significantly annoy or disturb Persons, or to injure, endanger or detract from the reasonable comfort, repose, health, peace or safety of Persons within the boundaries of the Village.
- 2.10 “Occupant” means any Person other than the registered Owner who is in possession of the Property, including, but not restricted to, a lessee, licensee, tenant or agent of the Owner.

- 2.11 “Order” means an Order issued by a Designated Officer as described in Section 545 or Section 546 of the *Municipal Government Act*, as applicable.
- 2.12 “Owner” means:
- 2.12.1 any Person registered as the Owner of Property under the *Land Titles Act*;
 - 2.12.2 a Person who is recorded as the Owner of Property on the Assessment Role of the Village;
 - 2.12.3 a Person who has become the beneficial Owner of the Property, including by entering into a Purchase and Sale Agreement, whether they have purchased or otherwise acquired directed from the Owner or from another Purchaser, and who has not yet become the registered Owner thereof;
 - 2.12.4 a Person holding himself out as the Person exercising the power or authority of Ownership or, who for the time being exercises the powers and authority of Ownership over the Property;
 - 2.12.5 a Person in control of Property under construction; or
 - 2.12.6 a Person who is the Occupant of the Property under a lease, license or permit.
- 2.13 “Person” means a corporation, partnership, or individual, and the heirs, executors, administrators or other legal representative of an individual.
- 2.14 “Permit” means a written Permit issued by the Village pursuant to Section 5.4 of this Bylaw.
- 2.15 “Property” means any lands, buildings, Structures or premises, or any personal property located thereupon, within the municipal boundaries of the Town.
- 2.16 “Refuse” means all solid and liquid waste including, but not limited to broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, chemicals, hazardous materials, Abandoned Vehicles, Abandoned Equipment, tires, manure or any other form of waste or litter.
- 2.17 “Reasonable State of Repair” means the condition of being:
- 2.17.1 structurally sound;
 - 2.17.2 free from significant damage;
 - 2.17.3 free from rot or other deterioration; and
 - 2.17.4 safe for its intended use.
- 2.18 “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.
- 2.19 “Village” means the Village of Thorsby, in the Province of Alberta.
- 2.20 “Unightly Premises” means any Property, whether land, buildings, improvements to lands and buildings, personal property or any other combination of the above, located within the Village that, in the opinion of a Designated Officer, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding Properties in reasonable proximity to the Unightly Premises, or is otherwise detrimental to the surrounding area or in an Unightly condition as defined by the *Municipal Government Act*.
- 2.21 “Violation Tag” means a tag or similar document issued by the Village pursuant to the *Municipal Government Act* for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow:

- 2.22 “Violation Ticket” means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*.
- 2.23 A Reference to a Provincial Statute within this Bylaw is a reference to the RSA 2000 version, as amended or appealed and replaced from time to time

SECTION 3 - NUISANCES AND UNSIGHTLY PREMISES

- 3.1 An Owner or Occupant of Property shall not cause or allow that Property or his use of that Property to constitute a Nuisance.
- 3.2 An Owner or Occupant of Property shall not cause or allow that Property to become a danger to public safety or an Unsightly Premises.
- 3.3 No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or to be stored upon Property owned or occupied by him or under his responsibility.
- 3.4 No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to accumulate in any building or Structure within the Village, except in appropriate containers provided for the temporary storage of Refuse or other waste materials for pick-up and disposal at a sanitary land fill, recycling centre or other waste management facility, or except as otherwise permitted pursuant to a statute or this, or another bylaw.
- 3.5 Conditions constituting a Nuisance include, but are not limited to:
- 3.5.1 the accumulation of Refuse or other waste products on Property;
 - 3.5.2 grass in excess of ten centimeters in length, or the presence of weeds, which in the opinion of a Bylaw Enforcement Officer, are excessive or which demonstrate neglect by the Owner;
 - 3.5.3 the accumulation of animal material, yard material, ashes or scrap building material;
 - 3.5.4 the accumulation of Abandoned Vehicles, Abandoned Equipment or household appliances;
 - 3.5.5 the presence or accumulation of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
 - 3.5.6 the accumulation of stagnant water which supports the breeding of mosquitoes or other pests;
 - 3.5.7 the presence of shrubs, trees, weeds or other vegetation which, as a result of its location on the Property has caused or is causing damage to adjacent properties, or which is obstructing a sidewalk, highway or public place, including the obstruction of sight lines necessary for the safe operation of Motor Vehicles on a highway within the Village;
 - 3.5.8 the failure to dispose of Refuse or other waste products accumulating in temporary storage containers upon the Property;
 - 3.5.9 the failure to keep Property in a Reasonable State of Repair, including a lack of repair or maintenance of buildings, Structures or Property, which includes but is not limited to:
 - 3.5.9.1 the significant deterioration of buildings, Structures or improvements, or portions of buildings, Structures or improvements;
 - 3.5.9.2 broken or missing windows, siding, shingles, shutters, eaves or other building material; or
 - 3.5.9.3 significant fading, chipping, peeling or absence of painted areas of buildings, Structures or improvements on Property.

SECTION 4 - MAINTENANCE STANDARDS IN URBAN AREAS

- 4.1 *All buildings, Structures and improvements to Property shall be maintained so that:*
- 4.1.1 *the foundations;*
 - 4.1.2 *exterior walls;*
 - 4.1.3 *roof;*
 - 4.1.4 *windows, including frames, shutters and awnings;*
 - 4.1.5 *doors, including frames and awnings;*
 - 4.1.6 *steps and sidewalks; and*
 - 4.1.7 *fences;*
- are kept in a Reasonable State of Repair.*
- 4.2 *All fixtures, improvements, renovations, or additions to any building, Structure or improvement on Property, including but not limited to:*
- 4.2.1 *exterior stairs;*
 - 4.2.2 *porches;*
 - 4.2.3 *decks;*
 - 4.2.4 *patios;*
 - 4.2.5 *landings;*
 - 4.2.6 *balconies; or*
 - 4.2.7 *other similar Structures*
- shall be maintained in a Reasonable State of Repair.*

SECTION 5 - NOISE

- 5.1 Except as otherwise permitted pursuant to this Bylaw, no Person shall:
- 5.1.1 cause or emit a Noise within the Village;
 - 5.1.2 operate, or permit the operation of a vehicle owned or at least by him, in a manner that causes a Noise.
- 5.2 No Owner shall permit Property he or she owns to be used in a manner such that a Noise is created on the Property.
- 5.3 No Occupant shall permit Property he or she occupies pursuant to a lease, licence or permit agreement to be used in such a manner as to create a Noise.
- 5.4 The Village may, upon receipt of a written request, issue a Permit to a Person for the purpose of suspending the application of the Noise prevention provisions of this Bylaw. Any written request submitted by a Person pursuant to this Section must specify the dates and hours of the day for which the Permit is sought.
- 5.5 Any Permit issued by the Village pursuant to Section 5.4 shall set out the hours and dates during which the Permit is in effect and may include any other condition or limitations the Village determines to be warranted in the circumstances.
- 5.6 A Permit issued pursuant to Section 5.4 shall be produced to a Bylaw Enforcement Officer upon demand.

- 5.7 Regardless of whether a Noise is actually generated, no Person shall engage in, on any Property Owned or Occupied by that Person, any construction or yard maintenance activity that has the potential to create a Noise on any weekday before 0700 hours or after 2300 hours, and on any weekend, before 0900 hours and after 2300 hours.
- 5.8 With the exception of Section 5.7, the provisions of this Bylaw do not apply:
- 5.8.1 to work carried on by Village staff, agents, contractors or servants, while engaged in activity authorized by the Village;
- 5.8.2 to Persons using domestic equipment, including without restricting the generality of the foregoing, lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners that vent to the outside of a Structure, or of any Person owning or controlling Property upon which such equipment is used, if:
- 5.8.2.1 the Noise is of a temporary or intermittent nature;
- 5.8.2.2 the equipment is properly maintained, unmodified and operated in a normal manner; and
- 5.8.2.3 the Noise occurs between the hours permitted pursuant to Section 5.7 of this Bylaw.
- 5.9 Section 5.7 shall not apply to work performed under Section 5.8.1 where the work performed is in response to an emergency, or where it would be impractical or unsafe to comply with Section 5.7.
- 5.10 The authority to issue a Permit pursuant to Section 5.4 of this Bylaw may be delegated by Council to the chief administrative officer or to any other Person by resolution of Council from time to time.

SECTION 6 - ENFORCEMENT

- 6.1 For the purpose of an inspection or enforcement under this Bylaw, a Bylaw Enforcement Officer is a Designated Officer of the Village.
- 6.2 A Designated Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter upon any Property or into any Structure, in accordance with Section 542 of the *Municipal Government Act*, in order to carry out an inspection, enforcement or other action required or authorized by this Bylaw, the *Municipal Government Act*, or any other statute.
- 6.3 Before conducting an inspection pursuant to Section 6.2, a Designated Officer shall provide the Owner or Occupant of the Property with reasonable notice as required by the *Municipal Government Act*.
- 6.4 Where contravention of this Bylaw has occurred or is occurring, a Designated Officer may issue an Order to the Owner, Occupant, or Person responsible for the contravention, or any or all of them, pursuant to Section 545 of the *Municipal Government Act*, in the case of a Nuisance or Noise, or pursuant to Section 546 of the *Municipal Government Act*, in the case of a danger to public safety or Unsightly Premises.
- 6.5 An Order issued by a Designated Officer under Section 6.4 may, in the case of a Nuisance or Noise:
- 6.5.1 direct the Person to whom the Order is issued to stop doing something, or change the way in which the Person is doing that thing;
- 6.5.2 direct the Person to take any action or measure necessary to remedy the contravention of this Bylaw, including but not limited to the cessation of an activity, the cutting or removal of trees, shrubs and foliage, and the removal or demolition of the Structure or improvement that is in contravention of this Bylaw and, if necessary, to prevent the reoccurrence of the contravention;
- 6.5.3 state a time period within which the Person responsible must comply with directions stated in the Order;

- 6.5.4 state that if the Person does not comply with the directions provided within the Order within the time period specified, that the Village may take any action or measure reasonably necessary to remedy the contravention at the expense of the Person responsible, with such expenses being recoverable against the Person responsible, in accordance with the provisions of the *Municipal Government Act*; and
- 6.5.5 shall notify the Person responsible of the right to apply by written notice for a review of the Order by Village Council, and any fee required for such an application, as set out at Schedule “B”.
- 6.6 An Order issued by a Designated Officer under Section 6.4 may, in the case of an Unsightly Premises or a dangerous condition:
- 6.6.1 require the Owner of any dangerous Structure to eliminate the danger to public safety in a manner specified or to remove or demolish the Structure and level the site;
- 6.6.2 require the Owner of the Unsightly Premises to:
- 6.6.2.1 improve the appearance of the Property in the manner specified; or
- 6.6.2.2 in the case of a Structure or improvement to lands, to improve the appearance of the Structure or improvement, or to remove or to demolish the Structure or improvement and level the site;
- 6.6.3 in the case of an excavation or hole, require the Owner of the Property upon which the excavation or hole is located to eliminate the danger to public safety in any manner specified, including filling in the excavation or hole and leveling the site;
- 6.6.4 state a time frame within which the Owner must comply with the directions provided in the Order;
- 6.6.5 state that if the Owner does not comply with the Order within the time frame specified, the Village may take any action or measure reasonably necessary to remedy the condition of the lands, structural or improvement, at the expense of the Owner with such expenses being recoverable in accordance with the provisions of this Bylaw and the *Municipal Government Act*; and
- 6.6.6 shall notify the Owner of the right to apply by written notice for a review of the Order by Council, and the required fee for such an application as set out at Schedule “B”.
- 6.7 A Person to whom an Order is issued pursuant to Sections 6.4 may request a review of the Order by written notice to Council within fourteen (14) days of the date on which the Order is received by that Person. Upon review of the Order, Council may confirm, vary, substitute or cancel the Order.
- 6.8 Any expenses or costs of any action or measure taken by the Village pursuant to this Bylaw are an amount owing to the Village by the Owner, Occupant or any other Person responsible for the contravention, or any or all of them.
- 6.9 If the Village sells all or a part of a Structure or improvement, or the contents of a Structure or improvement, that have been removed pursuant to this Bylaw, the proceeds of the sale must be used to pay the expenses and costs incurred by the Village in the enforcement of the Order issued, and any excess proceeds must be paid to the Owner, Occupant or Person responsible for the contravention, if entitled to them.
- 6.10 The expenses and costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt or added to the tax roll for the Property pursuant to the *Municipal Government Act*.

- 6.11 The Village may register a caveat pursuant to the *Land Titles Act* and the *Municipal Government Act* in respect to any Order issued under this Bylaw, against the Certificate of Title for the Property that is the subject of the Order.
- 6.12 If a caveat is registered pursuant to Section 6.11 of this Bylaw, the Village must discharge the caveat when the Order has been complied with, or when the Village has performed the actions or measures necessary to remedy the contravention as stated in the Order.
- 6.13 An Order issued pursuant to this Bylaw is deemed to have been served on the Person to whom it is addressed:
- 6.13.1 upon confirmation of receipt of the Order by the Person to whom it is addressed by registered mail; or
- 6.13.2 when the Order has been:
- 6.13.2.1 in the case of an individual, delivered personally to the individual, or left for the individual at his or her residence with a Person on the premises who appears to be at least eighteen (18) years of age;
- 6.13.2.2 in the case of a partnership or corporation, by registered mail or personal delivery to either the registered office or business address of the partnership or corporation.
- 6.14 In the event that the Village is unsuccessful in its attempts to serve the Order pursuant to subsections 6.13.1 or 6.13.2 above, a Designated Officer may post a copy of the Order in a conspicuous place on the Property referred to in the Order, when the Designated Officer has reason to believe that the Person to whom the Order is addressed is evading service, and that there is no other reasonable means of service available.

SECTION 7 - OFFENCES AND PENALTIES

- 7.1 Regardless of whether an or Order has been issued pursuant to this Bylaw, any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a penalty as set out in Schedule “A” herein.
- 7.2 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person, whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 7.3 A Violation Tag shall be served:
- 7.4.1 upon the Person personally, or by leaving it with the Person on the Premises who has the appearance of being at least eighteen (18) years of age; or
- 7.4.2 in the case of a corporation or partnership, by serving the Violation Tag personally upon a manager, corporate secretary or other officer, or Person apparently in charge of a branch office, by mailing a copy to such Person by registered mail.
- 7.5 A Violation Tag shall be in a form approved by the chief administrative officer, and shall state:
- 7.5.1 the name of the Person to whom the Violation Tag is issued;
- 7.5.2 a description of the Property upon which the offence has been committed, if applicable;
- 7.5.3 a description of the offence and the applicable Bylaw Section;
- 7.5.4 the appropriate penalty for the offence as specified in Schedule “A” of this Bylaw;
- 7.5.5 that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag in order to avoid prosecution; and

- 7.5.6 any other information as may be required by the chief administrative officer.
- 7.6 Where a Violation Tag has been issued pursuant to Section 7.3, the Person to whom the Violation Tag has been issued may, in lieu of being prosecuted for the offence, pay to the Village Office, the penalty specified on the Violation Tag.
- 7.7 In the event that a Violation Tag has been issued and the penalty specified on the Violation Tag has not been paid within the prescribed time, a Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act* to the Person to whom the Violation Tag was issued.
- 7.8 Notwithstanding Section 7.7, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any Person to whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 7.9 A Violation Ticket issued with respect to a violation of this Bylaw may be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
- 7.10 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, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided by this Bylaw.
- 7.11 Where a Clerk of the Court records in the court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and imposition of a fine in the amount of the specified penalty.

SECTION 8 - INTERPRETATION AND COMING INTO FORCE

- 8.1 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of the Bylaw shall be maintained.
- 8.2 The provisions of this Bylaw are not intended to restrict or reduce the express statutory authority of a Designated Officer operating lawfully.
- 8.3 Village of Thorsby Bylaw No. 96-01 is hereby repealed.
- 8.4 This Bylaw shall come into force upon receipt of its third and final reading.

READ a first time this 23rd day of October, 2006.

READ a second time this 23rd day of October, 2006.

READ a third and finally passed this 14th day of November, 2006.

VILLAGE OF THORSBY

PER: _____
MAYOR

PER: _____
CHIEF ADMINISTRATIVE OFFICER

SCHEDULE “A”

PENALTIES

Any Owner that fails to comply with or breaches the provisions of the Village of Thorsby’s Nuisance Bylaw or an Order made thereunder may be subject to a fine of:

- a. Not less than one hundred dollars (\$100.00) or not more than Two hundred dollars (\$200.00) do for an initial breach;
- b. Not less than Two hundred dollars (\$200.00) and not more than three hundred dollars (\$300.00) for a subsequent breach; and
- c. The minimum fine for a person who is found guilty of contravening or not complying with an Order under section 546 or 551 of the *Municipal Government Act* is three hundred dollars (\$300.00).

SCHEDULE "B"

COUNCIL REVIEW APPLICATION FEES

An application for review shall be accompanied by a non-refundable fee of Twenty Five dollars (\$25.00).