

# THE CITY OF SPRUCE GROVE

## **BYLAW C-909-15**

### **NUISANCES, UNSIGHTLY AND UNTIDY PROPERTY BYLAW**

Being a bylaw of the City of Spruce Grove in the Province of Alberta to regulate nuisances, unsightly and untidy property.

WHEREAS, the Municipal Council of the City of Spruce Grove deems it appropriate and in the community interest to require that property within the City is maintained in such a manner that it is not offensive, dangerous to health, or does not interfere with the use or enjoyment of adjacent properties,

NOW THEREFORE, the Municipal Council of the City of Spruce Grove, duly assembled hereby enacts as follows:

#### **1. DEFINITIONS**

- 1.1. "Act" shall mean the *Municipal Government Act*, RSA 2000, c.M-26.
- 1.2. "City" shall mean the municipal corporation of the City of Spruce Grove.
- 1.3. "Council" shall mean the Municipal Council of the City of Spruce Grove.
- 1.4. "Designated Officer" means the Chief Administrative Officer of the City or such other person as may be appointed from time to time by the Chief Administrative Officer. For the purposes of this bylaw, Peace Officers shall be designated officers.
- 1.5. "Highway" shall mean any thoroughfare, street, road, trail, avenue, parkway, viaduct, alley, square, bridge, causeway, trestle way, or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and which includes:
  - a. A sidewalk (including a boulevard portion thereof);
  - b. Where a ditch lies adjacent to or parallel with the roadway, the ditch; and
  - c. Where a highway right-of-way is contained between property lines or between a property line and one side of the roadway, all land between the property line and the edge of the roadway, as the case may be, but does not include a place

declared by the Lieutenant Governor in Council not to be a highway.

- 1.6. "Junked Vehicle" shall mean a vehicle that subject to the time limits contained in section 2.2:
  - a. Is in a wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition, or is determined to be not roadworthy and is not located in a building or located on the property such that it can be concealed from view; or
  - b. Is not located in a building and does not form part of a business enterprise lawfully being operated on that property.
- 1.7. "Nuisance" means any use of or activity upon any property which in the opinion of a designated officer is dangerous to health, or has or may have a detrimental impact upon any person or other property in the neighborhood, or which creates an unreasonable interference with the use or enjoyment of other property, and without limiting the generality of the foregoing, includes 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 whether or not their posting or exhibiting is permitted by this or any other bylaw.
- 1.8. "Occupant of Land" means the owner of any lot or parcel of land within the City of Spruce Grove whether or not a dwelling place is present on the land. For the purposes of this bylaw the "Occupant of Land" shall also be deemed to be the occupant of that portion of any highway within the City and subject to the direction, management and control of the Council of the City of Spruce Grove and which adjoins his or her land and lies between the boundary of his or her land and the middle line of the highway.
- 1.9. "Peace Officer" means a member of the Royal Canadian Mounted Police, a Peace Officer appointed under the Peace Officer Act, or a City Bylaw Officer.
- 1.10. "Person" shall mean any individual, corporation, firm, partnership, association, society, or registered company.
- 1.11. "Property" includes any lands, buildings or premises in the City of Spruce Grove.
- 1.12. "Public Lands" shall mean all lands under the ownership and control of Her Majesty the Queen in the Right of Canada, Her Majesty the Queen in the Right of Alberta, or the City of Spruce Grove.

- 1.13. "Refuse" shall mean junked articles including but not limited to solid wastes, including broken dishes, tins, glass, rags, clothing, paper, cardboard, food containers, grass cuttings, shrubbery and tree prunings, weeds and garden waste, abandoned vehicles, tires, residential furnishings, household appliances, animal feces or garbage bags.
- 1.14. "Untidy" or "Unsightly" property shall mean:
- a. A property that, because of its condition or the accumulation of refuse, is detrimental to the use and enjoyment of the surrounding area or neighbouring properties;
  - b. In respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, serious disregard for general maintenance, upkeep or repair, or that in the opinion of a designated officer, is dangerous to public safety; or
  - c. In respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep or if in the opinion of a designated officer, an excavation hole is dangerous to public safety or property.
- 1.15. "Vehicle" means a device in, on or by which a person or thing may be transported or drawn on a highway.

## **2. DUTIES AND COMPLIANCE**

- 2.1. No person being the owner or occupant of land or premises within the City shall permit the land or premises to be or remain in a nuisance, unsightly or untidy condition.
- 2.2. No person shall permit or allow a junked vehicle to remain in any part of a yard in any residential district, for more than fourteen (14) successive days.
- 2.3. No person shall cause, permit or allow refuse, metal, appliances, tires or animal feces to accumulate or be upon lands owned or occupied by him, or under his responsibility, or upon public lands adjoining lands owned or occupied by him, or under his responsibility.
- 2.4. No person shall cause, permit or allow refuse, metal or wood to accumulate in any open structure attached to any building within the City except in containers, bins, drawers, shelves and areas provided for temporary storage. No storage shall be allowed in the front or side yard of any property in a residential area.

- 2.5. It shall be in contravention of this bylaw and an offence for an owner of land within a residential area, to allow or condone any of the following acts:
- a. The accumulation or storage of any building materials, whether new, used or secondhand, on any lands or premises where the owner of the lands or premises is not in possession of a valid building permit referring to such materials and lands or premises unless the building materials are to be used for the maintenance or repair of a building as permitted by Bylaw C-824-12, Land Use Bylaw as amended;
  - b. The accumulation of automobile parts or appliance parts or accessories in any part of a yard in any residential district;
  - c. The parking of vehicles on a front or side yard in any residential district except on a designated driveway, created for that purpose;
  - d. No person shall cause, permit or allow for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment including but not limited to bulldozers, graders, backhoes, pay loaders, cranes, tractors, semi-trailers, or similar heavy equipment within a residential area.

### **3. NOTICE BY A DESIGNATED OFFICER**

- 3.1. Where any lands or premises in the City are in the opinion of the designated officer, untidy, unsightly or of a nuisance condition, a designated officer may give notice in writing to a person who is under a duty imposed by this bylaw to prevent such a condition to remedy the same, and the designated officer may direct that this be done in such a manner as he or she deems advisable on or before a day to be named in the notice.

### **4. INSPECTIONS**

- 4.1. After giving reasonable notice, a designated officer is authorized to enter any lands, buildings or premises other than a dwelling house to inspect for conditions that may constitute a nuisance, or contravene or fail to comply with the provisions of any bylaw and such designated officers may order the owner or occupant thereof to remedy any condition which is deemed to be in contravention of this or any bylaw in the City. This is pursuant to Section 542 of the *Municipal Government Act* for the purpose of ensuring compliance with this bylaw.

## **5. DELIVERY OF THE NOTICE**

- 5.1. After the inspection is completed a designated officer may issue a notice. The notice must specify a deadline for compliance and may give any specific instructions to remedy the nuisance.
- 5.2. The designated officer may allow up to thirty (30) days from the date of delivery of the notice for its compliance.
- 5.3. The City must serve the notice by delivering it or sending it by registered mail to the owner of the property, and may also;
  - a. Post it to the door of a building or in any other conspicuous place on the property, and service is effective on the day of the posting; or
  - b. Deliver it in person or mail it to any other owner, tenant or agent.

## **6. PENALTIES**

- 6.1. If a designated officer believes on reasonable and probable grounds that an offence has been committed or that an owner has not complied with the notice by the specified deadline, he may issue a ticket for a fine of:
  - a. \$250.00 for a first offence by that owner; and
  - b. \$500.00 for any subsequent offences by that owner.
- 6.2. If a designated officer finds there is a contravention of this bylaw the designated officer may, by written order, require the occupant of land to remedy it if the circumstance so require. The order may:
  - a. Direct an occupant of land to stop doing something, or to change the way in which the person is doing it;
  - b. Direct an occupant of land to take any action or measures necessary to remedy the contravention of this bylaw, including the removal or demolition of a structure, and if necessary, to prevent a reoccurrence of the contravention;
  - c. State a time within which the occupant of land must comply with the directions; and
  - d. State that if the occupant of land does not comply with the directions within the specified time, the City will take the action or measure at the expense of the person.

- 6.3. An Order issued under Section 6.2 is an Order issued under Section 545 of the *Municipal Government Act*
- 6.4. Where the occupant of the land neglects or refuses to pay the City the costs incurred to bring lands into compliance with the notice, the City may cause these costs to be added to the tax roll as a charge against the lands of the owner in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.

## **7. RIGHT OF APPEAL**

- 7.1. An owner who considers himself or herself aggrieved by a written Order given by a designated officer that relates to the property may seek a review of the Order by Council by filing a notice of appeal under Section 547 of the *Municipal Government Act*.
- 7.2. A notice of appeal shall be accompanied by an administrative fee of:
  - a. if a residential property \$100.00; or
  - b. If a business property \$200.00.
- 7.3. In the event that the Council of the City rules in favour of the appellant and revokes or varies the Order, the administrative fee shall be fully refunded.
- 7.4. A notice of appeal shall be in writing and shall set out:
  - a. The name and address of the appellant;
  - b. A copy of the Order in respect of which the review is being sought;
  - c. The legal description of the land affected; and
  - d. The grounds upon which the request for review is based.
- 7.5. A notice of appeal shall be delivered personally or sent registered mail to the General Manager of Corporate Services within fourteen (14) days of the date the notice is issued.
- 7.6. The Council of the City shall review and determine appeals as called for in Section 547 of the Act.
- 7.7. The General Manager of Corporate Services shall, on determination of the appeal, send a copy of the decision together with the written reasons, if any, to the appellant by registered mail.

**8. LIABILITY**

- 8.1. The City, any designated officer or any person who inspects any property under this bylaw, or any person who performs any work on behalf of the City to remedy a nuisance is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work set out in the notice.

**9. SEVERABILITY**

- 9.1. If at any time, any provision of this bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

**10. EFFECTIVE DATE**

- 10.1. This bylaw shall come into force and effect upon being given third reading and is duly signed.

**11. REPEAL OF BYLAW C-451-02**

- 11.1. Bylaw C-451-02 and amending Bylaw C-704-09 are hereby repealed.

First Reading Carried 23 March 2015

Second Reading Carried 23 March 2015

Third Reading Carried 13 July 2015

Date Signed 21 July 2015

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Mayor

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City Clerk