

## **BY-LAW NO.1024**

**A BY-LAW OF THE TOWN OF MILK RIVER, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING AND CONTROLLING UNSIGHTLY AND UNTIDY PREMISES, FOR THE CONTROLLING OF NOXIOUS / RESTRICTED AND OTHER WEEDS, THE TRIMMING OF TREES, AND THE ABATEMENT OF NOISE AND OTHER NUISANCES.**

**WHEREAS** the Council of the Town of Milk River, in the Province of Alberta, duly assembled may pass a by-law and/or regulation pursuant to Section 7(c) of the Municipal Government Act, being Chapter M-26, Revised Statutes of Alberta 2000, as amended;

**AND WHEREAS** the Council of the Town of Milk River, in the Province of Alberta, duly assembled may pass a bylaw and/or regulation pursuant to the Provincial Weed Act, being Chapter W-6, R.S.A. 1990, and amendments thereto;

**AND WHEREAS**, the Council of the Town of Milk River, in the Province of Alberta, deems it proper and expedient to pass a Bylaw for the purposes of controlling nuisances within the Town.

**NOW THEREFORE**, the Council of the Town of Milk River duly assembled enacts as follows:

**SECTION I**            This By-Law shall be cited as “THE NUISANCE BY-LAW”

**SECTION II**            **DEFINITIONS**

In this By-Law:

- (a) TOWN - means the corporate limits of the Town of Milk River, in the Province of Alberta.
- (b) COUNCIL - means the duly elected Council of the Town of Milk River.
- (c) CAO - means the person designated by the Town Council to carry out the Administrative duties of the Town of Milk River.
- (d) OWNER - means the registered owner of the land or premises for which an order or direction has been issued and served pursuant to this By-Law.
- (e) OCCUPANT - is the person or persons who reside at or on a property whether they are the owners or lessees.
- (f) PROPERTY – means real property and includes land, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof.
- (g) COMMUNITY PEACE OFFICER - means a member of the Milk River RCMP, a Special Constable or a Community Peace Officer.

(h) WEEKDAY- means any day other than a Sunday, Saturday or a holiday

**SECTION III            NUISANCES**

1.) “Nuisance” for the purpose of this by-law means any use of or activity upon any property which is offensive to any person, or has or may have a detrimental impact upon any person or other property in the neighborhood, and without limiting the generality of the foregoing, includes the following:

- (a) the failure to cut grass or weeds, including responsibility for the land at the front of property to the centre of the Street/Avenue and at the alley to the centre of the alley;
- (b) the failure to destroy restricted weeds, control noxious weeds, or prevent the spread or scattering of nuisance weeds, as per the Provincial Weed Act.
- (c) the owner of properties in the Town of Milk River, shall trim all trees, shrubs, bushes or hedges so that:
  - i) they are clear of all sidewalks and alleyway lanes, and do not overhang from such property to interfere with pedestrian or vehicular traffic lawfully using such street, sidewalk or walkway;
  - ii) they do not interfere with or endanger visibility to street signage or sidewalks, roadway clearance beneath them of a distance of three (3) meters from the top of the sidewalks, roadway or alleyway to the lowest most branch;
  - iii) along the frontage of properties and on corner lots with intersections, the bushes, shrubs, or hedges must be trimmed to a maximum height of one (1) meter.
- (d) the generation of excessive dust and permitting such dust to escape from the property;
- (e) the use of any pesticide or herbicide which has significant detrimental or environmental effects on surrounding areas;
- (f) the failure to control or eliminate insect pests harmful to the growth and development of trees and shrubs or any vegetable or plant life;
- (g) the owners of properties in the Town of Milk River, shall ensure that:
  - i) the neat and orderly storage of unregistered and un-operational vehicles be limited to no more than two (2) vehicles on any one property;
  - ii) the neat and orderly storage or accumulation of, or failure to dispose of, discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, and motor vehicle parts;

- (h) 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.
- (i) building structures as described in Section IV of this Bylaw;
- (j) Litter as described in Section V of this Bylaw;
- (k) noise as described in Section VII of this Bylaw;

2) No person being the owner, agent of the owner, lessee or occupier of any property within the Town shall permit such property, or the activities upon such property, to be or to remain a nuisance.

**SECTION IV**                      **WRITTEN ORDER**

1.) An Order to remedy dangerous or unsightly property,

- (a) Shall be in writing, shall be served on the person which has allowed a dangerous or unsightly condition, to the registered owner of the property.
- (b) An Order given by the Community Peace Officer pursuant to any of the provisions of the Bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:
  - i) On the Order being personally delivered to the person or whom it is addressed;
  - ii) On leaving the Order with a person apparently over the age of eighteen 18 years at the place of abode of the person to whom the notice is addressed;
  - iii) On sending the Order by mail, addressed to the last known postal address, or address shown on the assessment roll, as the case maybe;
  - iv) On the Order being sent by any electronic means so long as it is possible to make a copy of the document from the electronic signals used by the electronic means;
  - v) In the case where the property is a rental:
    - 1. On the tenant or any adult person, (18 years or older) who apparently resides with the tenant, or
    - 2. If the tenant or adult residing at the property or property owner cannot be served by posting the notice, order or document in a conspicuous place on some part of the premises
- (c) Upon completion of the inspection, the Community Peace Officer or a designated person may direct the owner or occupant of the property to:
  - i) cease the activity which causes the nuisance;
  - ii) change the way in which such person is carrying out the activity;

- iii) direct any person to take any action or measure necessary to compel the elimination or abatement of the nuisance, including the removal of any thing or matter from the property, which constitutes the nuisance;
  - iv) specify the time within which such person must comply with the directions contained in the notice; and
  - v) notify the owner or occupant that if compliance with the notice is not affected within a specified time, the Town of Milk River will take the actions or measures specified in the notice to abate the nuisance, at the expense of the owner or occupier.
- (d) If a Notice / Order of Compliance of the Community Peace Officer or a designated person is not complied with within fourteen (14) calendar days, after the date upon the notice, the Community Peace Officer may enter upon the said premises and carry out an inspection. As per Section 3, the Town of Milk River may remedy any situation and charge any costs incurred back to the owner or occupant, pursuant to the Provincial Weed Act, Section 27 and the Municipal Government Act, Section 553.
- (e) The owner or person who receives a written order pursuant to this bylaw may request Council to review the order by written notice to the CAO within fourteen (14) days of the date the order is received.
- i) Where an appeal is lodged, the order is stayed pending a final decision of Council.
  - ii) Upon reviewing the order, Council may confirm, vary, substitute or cancel the order.
  - iii) The owner or person who receives the written order may appear before Council in person or through a representative.
  - iv) Notice of decision of Council will be served to the person who requested the Council review.
  - v) Any owner or person affected by the decision of a Council review of an order pursuant to this bylaw may appeal to the Court of Queen's Bench. This appeal must be made within 30 days of the Council's date of decision.
- (f) In the case of a repeat non-compliance, the owner or person who receives the written Order shall have seven (7) days to submit a written request for a review of said Order.
- (g) A repeat offence occurs when the owner contravenes an Order for the same property more than once in a lifetime.
- (h) In the case where the Owner is in repeated non-compliance of an Order, it may be stated a date within which the person must remedy the dangerous or unsightly property. This date shall not be less than 7 days from the date the Notice of Decision of Council Review is received by the owner.

2.) DANGEROUS / EMERGENCY SITUATIONS - means in such case that a dangerous situation has not been remedied by the date required in the notice, the Town may take whatever actions or measures deemed necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property. The Town may take whatever actions necessary to eliminate an emergency.

**SECTION V            BUILDINGS / STRUCTURES**

- (a) The owner(s) of properties in the Town of Milk River, shall ensure that old unoccupied residences, no longer in use or in a safe condition for occupancy and old sheds and garages and other buildings in run down/poor condition and unsafe be demolished and removed from the property, or restored to a useable and safe condition in accordance with Building Standards and Codes and with the required demolition or building permits.
- (b) If an Order / Compliance Notice under this Section of the bylaw is not complied with within ninety (90) days of the date of the notice, the Community Peace Officer shall have the right to direct any person to do the work required by the order. *The cost of doing the work required, plus a fifty dollar (\$50.00) administration fee, may be recovered from the Owner of the property as a debt due to the Town of Milk River*, or such costs may be charged against the property taxes due and owing, pursuant to the Municipal Government Act, Section 553.

**SECTION VI            LITTER**

1.) No person shall place, deposit or throw or cause to be placed, deposited or thrown upon any Town property, including any street, lane, sidewalk, parking lot, park, or other public place or water source:

- (a) a cardboard or wooden box, carton, container, or receptacle of any kind;
- (b) a paper, wrapper, envelope, or covering of any kind, whether paper or not, from food or confectionery;
- (c) paper of any kind, whether or not containing written or printed matter thereon;
- (d) any glass, crockery, nails, tacks, barbed-wire or other breakable or sharp objects;
- (e) scrap metal, scrap lumber, tire, dismantled wrecked or dilapidated motor vehicle or parts there from;
- (f) any motor vehicle or any part of any motor vehicle which may, in whole or in part, obstruct any highway, street, lane, alley, or other public place;
- (g) dirt, filth or rubbish of any kind whether similar or dissimilar to the foregoing.

2.) A person who has placed, deposited or thrown or caused to be placed or thrown anything or any matter mentioned in subsection (1) upon any street, lane, sidewalk, parking place, park, or other public place or water course shall forthwith remove it.

3.) No person shall place, deposit or throw or cause to be placed, deposited or thrown upon or into any motor vehicle, which is parked on any street, lane, parking lot or other public place, any leaflet, pamphlet, poster, handbill, flyer or any paper containing printed or written matter, whether advertising or not, with the exception of any violation ticket or summons issued pursuant to lawful authority.

4.) The Community Peace Officer, by authorization of the CAO, may direct a Town employee, or other person, to remove and put in storage or destroy anything placed upon Town property in contravention of Section III, V and VI of this By-Law

**SECTION VII      TOWN PROPERTY**

No person shall cause or permit or undertake any activity that is a nuisance upon any Town property.

**SECTION VIII      NOISE**

1.)

- (a) No persons shall, within the Town of Milk River, during any period of the day allow, suffer or permit any electronic equipment, musical instruments, vehicles or any other devices to be sounded or used in any area of the Town of Milk River, that may or is likely to disturb others.
- (b) No person shall allow, suffer or permit loud noises to be emitted from within a premise occupied or under the control of that person that may or is likely to disturb other persons in the area.
- (c) No person shall allow, suffer or permit loud noises to be emitted from a vehicle, in its self, or from equipment in the interior of the vehicle that may or is likely to disturb others.
- (d) No person shall own, keep or harbour any animal or bird which makes, or causes to be made, any noise which disturbs or tends to disturb others.

2.). Domestic Noises

- (a) No person shall operate;
  - i) A motorized or electric construction/lawn/garden tool;
  - ii) A snow clearing device powered by a engine of any type;

In a residential zone between the hours of

- iii) Ten o'clock (10:00PM) in the evening and seven o'clock (7:00AM) in the

morning of the next day which is a weekday; or  
iv) Ten o'clock (10:00PM) in the evening and eight o'clock (8:00AM) in the morning of the next day which is a Sunday, Saturday or holiday

**3.) Construction Noises**

- (a) No person shall carry on construction of any kind that can be heard beyond the boundary of the construction site between the hours of ten o'clock (10:00PM) in the evening and seven o'clock (7:00AM) in the morning of the next day which is a weekday; or
- (b) Ten o'clock (10:00PM) in the evening and eight o'clock (8:00AM) in the morning of the next day which is a Sunday, Saturday or holiday

**4.) SPECIAL EXEMPTIONS** of this Bylaw may be granted by the Council of the Town of Milk River or by the CAO of the Town of Milk River for:

- (a) special events as designated by Council; and
- (b) the operation of equipment, within reason, within Commercial or Industrial areas / lands of the Town of Milk River, as designed in the Land Use Bylaw; and
- (c) work of an exigent nature being carried on by a town department, utility company, or outside contractor acting on the town's behalf.
- (d) NOTHING HEREIN shall render any person liable to a fine, penalty or punishment for performing work of an emergency nature for the preservation or protection of life, health or property.

**SECTION IX      ALL PENALTIES**

**1.) ANY PERSONS** who are found to be in contravention of this Bylaw are liable to pay a voluntary penalty, that may be issued and served on a Provincial Part 3 Violation Ticket as follows:

- (a) A one hundred & fifty (\$150.00) dollar fine for first offense;
- (b) A three hundred (\$300.00) dollar fine for second offense; and
- (c) A five hundred (\$500.00) dollar fine for third and subsequent offenses.

**2.) ANY PERSON** who contravenes any provisions of the bylaw, is guilty of an offense and may be liable on summary conviction to a fine of not more than one thousand (\$1,000.00) dollars or not more than three (3) months imprisonment or to a fine and imprisonment. Any costs incurred by the Town, including, but not limited to costs of prosecution, shall be borne by the owner / occupant in addition to any other penalties or fines.

**SECTION X            RESCINDING OF BYLAWS**

The following Bylaws in and for the Town of Milk River are hereby rescind in their entirety:

**Bylaw No. 1006 – Nuisance By-Law**

**SECTION XI**            This Bylaw shall take force and effect upon the final reading thereof.

**READ** a first, second and with unanimous consent, a third and final time this 9<sup>th</sup> day of September, 2019.

  
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**Mayor – Peggy Losey**

  
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**CAO – Ryan Leuzinger**