

**VILLAGE OF DUCHESS**

**BYLAW NO. 450/11**

**A BYLAW OF THE VILLAGE OF DUCHESS IN THE PROVINCE OF ALBERTA TO REGULATE UNSIGHTLY PROPERTY.**

**WHEREAS** the Municipal Government Act RSA 2000, c M-26 and regulations as amended, provides that Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people; the protection of people and property; nuisances; services provided by or on behalf of the municipality; public utilities; and the enforcement of bylaws;

**AND WHEREAS** no Owner or Occupant in control of property, land, premises or building shall permit, suffer, continue or allow to be continued an unsightly condition on that property, land, premises or building;

**AND WHEREAS** Section 546 of the Municipal Government Act RSA 2000, c M-26 and regulations as amended, authorizes Council to require the owner of the property that is in an unsightly condition to improve the appearance of the property.

**NOW THEREFORE**, the Council of the Village of Duchess, in the Province of Alberta, hereby enacts a follows:

**TITLE**

1. This Bylaw may be referred to as the **“Unsightly Property Bylaw”**.

**DEFINITIONS**

2. In this Bylaw, unless the content otherwise requires:
  - a) **“Act”** means the Municipal Government Act RSA 2000, c M-26 and regulations made under the Municipal Government Act as amended;
  - b) **“Bylaw”** means the Village of Duchess Bylaw No. /12 as may be amended from time to time;
  - c) **“Bylaw Enforcement Officer”** means a person appointed to enforce the provisions of this Bylaw, and includes a Community Peace Officer, a member

of the Royal Canadian Mounted Police and, when authorized, a Special Constable;

- d) **“Chief Administrative Officer”** means the Person appointed to the position of Chief Administrative Officer by the Council of the Village of Duchess and includes any Person that the Chief Administrative Officer may appoint as his designate for purposes of carrying out his responsibilities under this Bylaw and further includes any Person that may be appointed to act in the absence of the Chief Administrative Officer;
- e) **“Council”** means the Municipal Council of the Village of Duchess;
- f) **“Designated Officer”** is defined under section 210 of the Municipal Government Act;
- g) **“Improvement”** means a structure or anything attached or secured to a structure that would be transferred without special mention by a transfer or sale of the structure, including but not limited to a manufactured home or mobile home, or machinery and equipment;
- h) **“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;
- i) **“Order”** means a document issued by a Designated Officer pursuant to s.6 of this Bylaw, or s. 545 or s. 546 of the Act, requiring any Person to take any action necessary to remedy the contravention of this Bylaw or the Act;
- j) **“Owner”** includes the Person shown as the owner on the Land Title for a property, the occupant of a premises, the lessee or tenant of a premises, the Condominium Board of a condominium property, a property management company which holds itself out as the Person responsible for of a premises, or the owner or operator of a Commercial Operation, as the case may require;
- k) **“Person”** means any person, firm, partnership, association, corporation, company or organization of any kind;
- l) **“Property”** means a parcel of land; an improvement, or; a parcel of land and the improvements to it;

- m) **“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;
- n) **“Unsightly Property”** property described in Section 3 of this Bylaw;
- o) **“Village”** means the Village of Duchess, a Municipal Corporation in the Province of Alberta, or the geographical area contained within the boundaries of the Village of Duchess, as the context may require;
- p) **“Violation Tag”** means a tag or similar document issued by the Village pursuant to the Act;
- q) **“Violation Ticket”** means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, RSA 2000,c P-34, as amended or repealed and replaced from time to time, and any Regulations thereto.

### **UNSIGHTLY PROPERTY**

- 3. Unsightly Property is Property that, in the opinion of the Designated Officer, is detrimental to the surrounding area because of its unsightly condition as defined at s. 546 of the Act.
- 4. Some factors which may be considered by a Designated Officer in determining whether property is Unsightly Property include the following:
  - a) the presence of uncut grass or weeds;
  - b) the presence of wrecked or dismantled vehicles, camper trailers, campers or stock trailers and/or vehicles that are inoperable and unregistered;
  - c) the storage or accumulation of waste, litter, refuse (including but not limited to building materials, tires, boxes, scrap metal), equipment, dilapidated furniture or appliances ,machinery parts or other similar materials or items;
  - d) specific or general lack of repair or maintenance including but not limited to:
    - i) significant deterioration of improvements or portions of improvements;

- ii) broken or missing windows, siding, shingles, shutters, eaves or other building materials; or
- iii) significant fading, chipping, or peeling of painted areas of improvements;
- e) the location, zoning, use and visibility of property.

### **INSPECTION**

5. A Designated Officer may inspect Property in accordance with Section 542 of the Act for the purposes of determining whether:
  - a) Property is Unsightly Property under this Bylaw because its unsightly condition is detrimental to the surrounding area in accordance with s. 546 of the Act;
  - b) there has been compliance with an Order issued under s.7 of this Bylaw; or
  - c) there has been compliance with an Order issued in accordance with subsection 546(1)(c) of the Act.
6. The Village may apply to the Court of Queen's Bench to authorize inspection and enforcement in accordance with s. 543 of the Act if a person refuses to allow or interferes with entry for inspection.

### **ORDER**

7. If, in the opinion of a Designated Officer, Property is detrimental to the surrounding area because of its unsightly condition, the Designated Officer may issue a written Order in accordance with subsection 546 (1) (c) of the Act to the Owner or Occupant of the Property to improve the appearance of the Property in the manner specified within a period of seven (7) days from the date of the issuance of the Order.

### **REMEDY UNSIGHTLY CODITION OF PROPERTY**

8. If an Order has been issued under s. 7 of this Bylaw and not complied with within the time period set out in that Order, the Villager may take whatever actions or measures are necessary to:
- a) deal with the unsightly condition of the Property in accordance with s. 550 of the Act; and
  - b) collect any unpaid costs or expenses incurred by the Village in accordance with the Act.

The costs and expenses of the actions or measures taken by the Village are charged in addition to any penalty imposed under this Bylaw.

### **REVIEW OF ORDERS**

9. A Person who receives an Order may by written notice, within seven (7) day after the Order is received, request Council to review the Order in accordance with subsection 547 1)(b) of the Act.
10. After reviewing the Order, Council may confirm, vary, substitute or cancel the Order in accordance with subsection 547 (2) of the Act.

### **APPEAL TO COURT**

11. A person affected by the decision of Council under s. 10 of this Bylaw may appeal to the Court of Queen's Bench in accordance with s. 548 of the Act.

## **OFFENCES AND PENALTIES**

12. Any Person who breaches any provision of this bylaw is guilty of an offence, and upon summary conviction, shall be liable to the specified penalties set out in Schedule "A" of his Bylaw, as amended by resolution of Council from time-to-time.
13. Any Person who contravenes any provision of this Bylaw is guilty of an offence and liable:
  - a) A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has Contravened any provision of this Bylaw.
  - b) A Violation Tag may be issued to such Person:
    - i) personally; or
    - ii) by mailing a copy to such Person at his/her last known post office address; or
    - iii) if being issued to a corporation by serving the Violation Tag personally upon the manager, secretary, receptionist or other officer or Person apparently in charge at any premises of the corporation, or by mailing a copy to such corporation by registered mail.
  - C The Violation Tag shall state:
    - i) the name of the Person;
    - ii) the municipal or legal description of the land on or near where the offence took place;
    - iii) the offence;
    - iv) the penalty for the offence as set out in s. 12 of this Bylaw;
    - v) that the penalty shall be paid within seven (7) days of the issuance of the Violation Tag; and
    - vi) any other information as may be required by the Chief Administrative Officer or by the provisions of the Act.

14. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Bylaw Enforcement Officer provided, however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
15. Where the Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village the penalty specified on the Violation Tag.
16. a) Notwithstanding any provision of this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered without having first issued a Violation Tag and at the Bylaw Enforcement Officer's discretion, to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act RSA 2000, c P-34, to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.  
  
b) A Violation Ticket issued pursuant to this Bylaw shall be issued in the form and manner specified by the Provincial Offences Procedure Act RSA 2000, c P-34, and any regulations made there under.

#### **SEVERABILITY**

17. It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

#### **REPEAL OF BYLAW**

18. That Bylaw No. 316/87 and amendments thereto are hereby repealed.

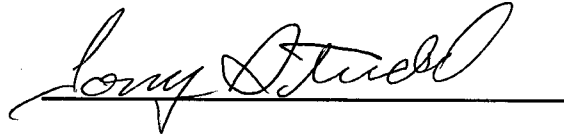
#### **EFFECTIVE DATE**

19. This Bylaw shall take effect at the date of final passing thereof.

**Read a first time this 20th day of December, 2011**

**Read a second time this 20th day of December, 2011**

**Read a third time and finally passed this 16th day of January, 2012**

A handwritten signature in cursive script, appearing to read "Tony Studd", is written above a solid horizontal line.

**Mayor**

A handwritten signature in cursive script, appearing to read "U. Mosh", is written above a solid horizontal line.

**Chief Administrative Officer**



**SCHEDULE "A"**

**BYLAW NO. 450/11**

**Penalties**

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**Offence**

Section 13

First Offence by that Person	\$ 100.00
Second Offence by that Person	\$ 200.00