

**TOWN OF BOWDEN
PROVINCE OF ALBERTA
BYLAW 04 - 2014
NUISANCE BYLAW**

**BEING A BYLAW TO REGULATE AND ABATE NUISANCE AND UNSIGHTLY PREMISES
IN THE TOWN OF BOWDEN, ALBERTA**

WHEREAS Pursuant to the provisions of the Municipal Government Act, Revised Statutes of Alberta, 2000 Chapter M-26 and amendments thereto, Council may pass a bylaw for the purpose of regulating and controlling nuisances including unsightly property, and for the safety, health and welfare of people, and the protection of people and property;

WHEREAS the Council deems it necessary to provide for efficient means of regulating and encouraging the abatement of unsightly premises within the Town of Bowden;

NOW, THEREFORE, THE TOWN OF BOWDEN IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

SECTION 1 TITLE

This Bylaw is cited as "The Town of Bowden Nuisance Bylaw".

SECTION 2 DEFINITIONS

- a) **"Ashes"** means the residue left after the combustion of any matter.
- b) **"Adjacent"** means land that is contiguous to land that is the subject of a nuisance and includes land or a portion of land that would be contiguous if not for a public road, railway, river or stream.
- c) **"Appliance"** means any household appliance and may include but is not limited to: air conditioner, dishwasher, clothes dryer, freezer, refrigerator, kitchen stove, water heater, washing machine, trash compactor, microwave oven or induction cooker.
- d) **"Boulevard"** means, in an urban area the part of a highway that is:
 - i. Not a roadway, and
 - ii. That part of a sidewalk that is not especially adapted to the use of, or ordinarily used by pedestrians.
- e) **"Building Material"** means material or debris which may result from the construction, renovation or demolition of any building or other structure and includes, but is not limited to, wood, gypsum board, roofing, siding, metal, packaging material and containers of building material, gravel, concrete, asphalt, any earth, rocks and vegetation displaced during such construction, renovation or demolition of any building or other structure.

- f) **“Bylaw Enforcement Officer”** means a Bylaw Enforcement Officer appointed by Town Council.
- g) **“Chief Administrative Officer” (CAO)** means the Chief Administrative Officer as appointed by Council or authorized person(s) as delegated as the CAO.
- h) **“Council”** means the duly elected municipal officials of the Town of Bowden as defined in the Municipal Government Act.
- i) **“Court”** means the Provincial Court of Alberta.
- j) **“Defecate”** means to discharge waste matter from the bowels.
- k) **“Dilapidated Vehicle”** means a vehicle in a state of disrepair or ruin as a result of age or neglect.
- l) **“Fight”** means any confrontation involving violent verbal or physical conduct between two or more people.
- m) **“Garbage”** means any household or commercial rubbish including, but not limited to, boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, discarded clothing or fabric and discarded household items.
- n) **“Graffiti”** means words, figures, letters or drawings scribbled, scratched or sprayed on any surface.
- o) **“Herbaceous Plant”** means a plant having little or no woody tissue above ground as opposed to trees or shrubs.
- p) **“Land Owner”** means the owner of a parcel of land as registered with Alberta Land Titles.
- q) **“Notice”** means a notice issued pursuant to this bylaw to remedy a condition that is not in compliance with any provisions of this bylaw.
- r) **“Not in Good Repair”** means a condition where something has:
 - i. significant damage,
 - ii. peeling surfaces,
 - iii. broken, missing or fallen parts,
 - iv. rot or significant deterioration,
 - v. openings which are not secured against trespassers or infiltration of air and precipitation,
or
 - vi. other visual evidence of a lack of general maintenance.
- s) **“Noxious Weed”** means a plant designated in accordance with the regulations in the Alberta Weed Control Act as a noxious weed and includes the plant’s seeds.
- t) **“Noxious Emissions”** means a substance discharged into the air that is harmful or poisonous to the health of living things.

- u) **“Nuisance”** means and includes any activity upon any premises which is offensive to any person acting reasonably, or that may have a detrimental impact upon any person or other premises in the neighbourhood or is dangerous or an imminent danger to public health or safety, or materially depreciates the value of other land or improvements on adjacent land.
- v) **“Park”** means a tract of land reserved for public use, such as for recreation. It may be an enclosed playing field or stadium, and may include any municipally owned property to which the public has access.
- w) **“Person”** means any individual, corporation, society, association, partnership or firm.
- x) **“Premises”** means the exterior walls and the components of any building or structure and shall include the land, accessory buildings, fences and erections thereon.
- y) **“Public Places”** means properties that are owned by the municipality or are vested in the crown.
- z) **“Spit”** means to eject phlegm, saliva or any other substance from the mouth.
- aa) **“Street”** means any category of roadway.
- bb) **“Town”** means the Town of Bowden as defined in the Municipal Government Act.
- cc) **“Unightly Premise”** means any property or part of it which is characterized by visual evidence of a lack of general maintenance and upkeep by the accumulation on the premises of:
 - i. garbage, animal or human excrement, sewage, the whole or part of an animal carcass, animal material, dirt, soil, gravel, rocks, petroleum products, hazardous materials, disassembled equipment or machinery, broken household goods,
 - ii. the whole or part of any vehicle or vehicles which are not registered with the Motor Vehicle Registry for the current year and which are inoperative by reason of disrepair, removed parts or missing equipment,
 - iii. equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances,
 - iv. ashes, building material, and yard material, or
 - v. any other form of scrap, litter, trash, or waste of any kind.
- dd) **“Urinate”** means to discharge urine from the body.
- ee) **“Vehicle”** means a device in, on or by which a person or thing may be transported or drawn on a roadway or pathway and includes vehicles such as but not limited to: car, truck, SUV, van, motorhome, motorcycle, snowmobile, or quad.
- ff) **“Vomit”** means to eject from the mouth the contents of one’s stomach or any substance that reasonably appears to have been from one’s stomach.
- gg) **“Weed”** means a plant that is considered undesirable, unattractive or growing where it is not wanted.

- hh) “**Yard Material**” means waste material of an organic nature formed as a result of gardening, horticultural pursuits, or agricultural activities and includes grass, tree and hedge cuttings, waste sod and decomposing plants, leaves and weeds.

SECTION 3 PROHIBITION OF A NUISANCE

3.0 No person being the owner, agent of the owner, lessee or occupier of any property within the town shall permit such a property to become or remain a nuisance which may include but is not limited to the following:

- a) the failure to keep grass and herbaceous plants on the lawn area of the premises less than 15 centimeters in height,
- b) the growth of herbaceous plants that are not confined to a garden or soil bed,
- c) permitting a building or structure to deteriorate, become damaged or exist in a ruinous or dilapidated state,
- d) the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or sidewalk or roadway clearance,
- e) the failure to remove dead or hazardous trees or vegetation which are dangerous to the public safety,
- f) the generation of excessive dust, thick smoke, steam or other noxious emissions and permitting such dust, smoke, steam, or noxious emission to escape from the premises,
- g) the storage of unlicensed or unregistered vehicles,
- h) the storage, stockpile or accumulation of rubbish, garbage or other articles of material including, but not restricted to, discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects,
- i) the failure to dispose of any rubbish, garbage or other article or material, and discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects in wrecked, discarded, or abandoned condition accumulated upon any premises,
- j) the allowance of a hole, excavation or accumulation of material that may be dangerous to public safety or health to exist on premises,
- k) the allowance of conditions that result in an infestation of harmful rodents, vermin or insects on premises, or
- l) the posting or exhibiting of any posters, signs, billboards, placards, words, drawings or paintings, or any signs or messages or pictures upon the premises in a residential area,
- m) the posting or exhibiting of any legal or permitted posters, signs, billboards, placards, words, drawings or paintings, or any signs or messages or pictures upon the premises in a commercial or industrial area, where the same becomes in dilapidated and unsightly condition.

3.1 No person shall cause or permit or undertake any activity upon town property which is a nuisance.

SECTION 4 ACCUMULATION OF MATERIALS

4.0 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, public transportation vehicle, public transportation shelter, or other public transportation facility or other public place or water course:

- a) any cardboard or wooden box, carton, container, or receptacle of any kind, plastic or other manmade materials with the exception of municipal recycling on approved days,
- b) any paper, wrapper, envelope, or covering of any kind, whether paper or not, from food or confectionary,
- c) any paper of any kind, whether or not containing written or printed matter thereon (subject to provisions in Section 11),
- d) any human or animal matter or waste,
- e) any vegetable matter or waste other than designated compost areas,
- f) any glass, crockery, nails, tacks, barbed-wire or other breakable or sharp objects,
- g) any scrap metal, scrap lumber, tires, dismantled, wrecked or dilapidated motor vehicles or parts therefrom,
- h) any motor vehicle or any part of any motor vehicle which may, in whole or in part, obstruct any highway, street, lane, alley, bi-way or other public place, or
- i) any dirt, filth or rubbish of any kind whether similar or dissimilar to the foregoing.

4.1 All outdoor salvage yards, auto wreckers or other businesses which by their nature appear to be untidy or unsightly, shall be obscured from view by approved screening from surrounding property.

SECTION 5 APPLIANCES

5.0 No owner of a premise shall allow a dilapidated appliance to remain on or near private property.

5.1 No owner of a premise shall allow any appliance to remain on the exterior of a premise such that the appliance is visible to a person viewing from outside the property.

5.2 Commercial businesses with a valid business licence for appliance sales may obtain a storage permit from the Development Officer or Bylaw Enforcement Officer.

5.3 Doors on appliances are to be removed while waiting for transition to the waste transfer station. The maximum time for transition is 10 days.

SECTION 6 TREES OR SHRUBS

6.0 If a tree or shrub whether on private property or otherwise, in any way impedes safe movement of pedestrians or vehicles, 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 infringes upon road sight lines a Bylaw Enforcement Officer may direct the owner of the property on which such tree or shrub stands to remove or prune the tree or shrub.

SECTION 7 NOXIOUS EMISSIONS & DUST

7.0 A person shall not engage in any activity that is likely to allow excessive thick smoke, steam, dust, noxious emissions or other airborne matter that may disturb any other person to escape from their premises.

SECTION 8 GRAFFITI

8.0 No person shall create graffiti.

8.1 Every owner of a premise shall ensure that graffiti placed on their premises is removed, painted over or otherwise permanently blocked from public view within 10 days, or in a time frame specified by the Town's Bylaw Enforcement Officer.

SECTION 9 WATER, EAVES TROUGH DOWNSPOUTS & SUMP PUMPS

9.0 Eaves trough downspouts shall be installed so as to be directed to the front and rear of the property only. Eaves trough down spouts shall be perpendicular to either the front or rear parcel boundaries and be wholly contained within parcel boundaries.

9.1 Sump pump hoses shall be installed so as to be directed to the front and rear of the property only. Sump pump hoses shall be perpendicular to either the front or rear parcel boundaries and be wholly contained within parcel boundaries.

SECTION 10 PESTICIDES AND HERBICIDES

10.0 Pesticides and Herbicides may not be used in such a manner as to negatively impact adjacent properties.

10.1 All pesticides and herbicides used and control procedures will be in accordance with federally approved label recommendations and the requirements set by Alberta Environment.

10.2 Where possible, chemical pesticide and herbicide controls shall only be used when alternative control measures are not effective.

SECTION 11 FLYERS & DEBRIS

11.0 An owner of a premise 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 neighbouring properties.

11.1 No person shall deposit commercial flyers on a premise 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.

11.2 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 premise 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.

11.3 An owner of a premise is responsible for papers and flyers on their premises regardless of whether or not they solicited for the delivery of these papers or flyers.

SECTION 12 GRASS

12.0 No owner of a premise shall allow the lawn (grass or other herbaceous matter) on the premises that are not confined to a garden or soil bed to exceed a height of 15 centimeters.

12.1 No owner of a premise shall allow one third or more of the total area of the premises to become infested with weeds.

12.2 No owner of a premise shall allow Noxious Weeds as identified in the Alberta Invasive Plant Identification Guide on their property.

12.3 This section shall not apply to farmland or open natural spaces.

SECTION 13 EXCAVATIONS, POND WATER, OUTDOOR SWIMMING POOLS & HOT TUBS

13.0 No owner of a premise shall allow an excavation, drain, ditch or other depression in the ground to become or remain a danger to public safety.

13.1 In the opinion of the Bylaw Enforcement Officer, if a water-course, pond or other surface water becomes or remains a nuisance or poses a danger to public safety, the Bylaw Enforcement Officer may declare the water-course, pond or other surface water a nuisance and require the owner or occupier of the premises to eliminate or enclose the nuisance or danger.

13.2 No person shall allow an outdoor hot tub, whirl pool or swimming pool to be installed in a front yard.

13.3 If a privately owned pool has a water design depth greater than 600mm, then the pool is classified as a private swimming pool for Alberta Building Code purposes. Fence and gate requirements will then apply. These requirements are applicable even if the private swimming pool is an on-ground swimming pool.

SECTION 14 OBLIGATION TO MAINTAIN

14.0 No owner of a premise shall allow a structure or residential fence to become a safety hazard.

14.1 No owner of any property in town shall erect any fence wholly constructed of barbed wire, with the exception of bona fide agricultural operations.

14.2 Notwithstanding Section 14.1, where a fence in an area zoned commercial or industrial inside the Municipality is partly constructed of barbed wire, the barbed wire part shall be no closer to the ground than 2.0 meters.

14.3 Every owner of a premise 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. protective or decorative finishes of all exterior surfaces of a structure or fence, and
 - vi. exterior stairs, landings, porches, balconies and decks.

SECTION 15 PUBLIC BEHAVIORS

15.0 Fighting:

- a) no person shall participate in a Fight in any Public Place or within sight of the public on any property.
- b) section 15.0(a) does not apply to individuals participating in an organized sporting event on Public Property wherein participants are governed by rules of conduct.

15.1 Urination & Defecation:

- a) no person shall Defecate or Urinate in or on a Public Place or within the sight of the public on any property, and
- b) no person located in or on any Public Place shall Defecate or Urinate into or onto any other property.

15.2 Spitting:

- a) no person shall Spit in any Public Place or within the sight of the public on any property,
- b) no person located in or on any Public Property shall Spit into or onto any other property, and

15.3 Vomiting:

- a) no person shall Vomit in any Public Place or within the sight of the public on any property, and

b) no person located in or on any Public Place shall Vomit into or onto any other property.

15.4 Causing a Disturbance: No person located in a Public Place shall disturb the peace and enjoyment of other members of the public by:

a) screaming, shouting, swearing or using loud, blasphemous, abusive or grossly insulting language,

b) being intoxicated by alcohol or other substances, or

c) exposing oneself or exhibiting an indecent act.

SECTION 16 EXEMPTIONS & EXCEPTIONS

16.0 The provisions of this bylaw shall not be interpreted to prevent bona fide and permitted commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other related activities from being lawfully carried out in a timely fashion in relation to a premise.

16.1 The owner of a premise that carries on or permits the carrying on of any activities referred to in Section 16.0 of this bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the premise.

SECTION 17 OFFENCES AND POWERS OF BYLAW ENFORCEMENT OFFICERS

17.0 The Bylaw Enforcement Officer may, after giving reasonable notice to the owner of the premises, enter upon the said premises and carry out an inspection.

17.1 Upon completion of the inspection, the Bylaw Enforcement Officer may direct the owner of the property to:

- a) cease the activity which causes the nuisance,
- b) change the way in which such person is carrying out an activity,
- c) direct any person to take 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,
- d) specify the time within which such person must comply with the directions contained in the notice, and
- e) notify the owner that, if compliance with the notice is not effected within a specific time, the municipality will take the actions or measures specified in the notice to abate the nuisance, at the expense of the owner.

17.2 Any person who contravenes any provision of this bylaw is guilty of an offence and is liable upon conviction to a minimum and specified fine as set out in Schedule "A" attached and forming part of this bylaw. Where there is no specific fine listed in Schedule "A" for a particular offence, the minimum specified fine for first offence shall be \$200.00.

17.3 A Bylaw Enforcement Officer is 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.

17.4 Where a premise is found to be in non-compliance with any provision of this bylaw, the owner may be served with a notice containing the following:

- a) the address and/or physical location where remedial action is required,
- b) the condition or conditions that are not in compliance with this bylaw,
- c) the remedial action that is required, and
- d) the deadline for completion of the remedial action required.

17.5 A violation ticket may be issued to such person:

- a) personally,
- b) by mailing a copy to such person at their last known post office address,
- c) by leaving it for the defendant at their residence with a person on the premises who appears to be at least 18 years of age,
- d) by being attached or left upon the premises in respect to which the offence is alleged to have been committed.

17.6 Where a contravention of this bylaw is of a continuing nature, further violation tickets may be issued by a Bylaw Enforcement Officer after 24 hours.

17.7 The Bylaw Enforcement Officer may authorize any town employee, or other person, to remove and put in storage or destroy anything placed upon town property in contravention of this bylaw.

17.8 Where a violation ticket is issued pursuant to this bylaw, the person to whom the violation ticket is issued in lieu of being prosecuted for the offence may pay to the Municipality the penalty specified on the violation ticket.

17.9 Nothing in this bylaw shall prevent a Bylaw Enforcement Officer from immediately issuing a violation ticket.

17.10 In those cases where a violation ticket has been issued and if the specified penalty on the violation ticket has not been paid within the prescribed time, then a Bylaw Enforcement Officer is authorized to issue a violation ticket pursuant to Part II or Part III of the *Provincial Offences Procedure Act*, to any person who the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of the bylaw.

17.11 The violation ticket shall be in a form approved by the CAO.

SECTION 18 MINIMUM AND SPECIFIED PENALTIES

18.0 The minimum and specified penalties for a violation of any provision of this bylaw are shown in Schedule "A" of this bylaw.

18.1 Where a person being the owner of any lands or premises fails or neglects to comply with the direction given by the Municipality under this Part, in addition to any other remedy available for non-compliance with this Part, the Municipality may cause the identified repairs or removal to be completed. The cost thereof shall be paid to the Municipality upon demand. Failing payment within the specified timeline will result in such cost being added to the tax roll of the property.

SECTION 19 SEVERABILITY

19.0 Each provision of this bylaw is independent of all other provisions. If a court of competent jurisdiction declares any such provision invalid, all other provisions of this bylaw will remain valid and enforceable.

SECTION 20 STRICT LIABILITY OFFENCE

20.0 It is the intention of Council that all offences created by this bylaw be interpreted to strict liability.

SECTION 21 EFFECTIVE DATE

21.0 This Bylaw comes into effect upon the date of its third and final reading.

21.1 Upon passage of this bylaw, Town of Bowden Bylaw 09/2001 is hereby rescinded.

READ a first time this 23rd day of June, 2014

READ this a second time this 28th day of July, 2014

READ this a third time and finally passed in Council this 28th day of July, 2014



Mayor



Chief Administrative Officer

SCHEDULE A

PENALTIES

*Column A indicates specified penalties for First Offence violation tickets pursuant to this Bylaw

*Column B indicates minimum Second Offence violation penalties (Or a continuing prior First Offence)

SECTION	DESCRIPTION OF OFFENCE	A	B
3	Prohibition Of A Nuisance		
3.0 e)	Fail to remove dead or hazardous vegetation	\$100.00	\$200.00
3.0 g)	Unlicensed or unregistered vehicles	\$200.00	\$500.00
3.0 h)	Stockpile rubbish or garbage on premises	\$200.00	\$500.00
3.0 i)	Fail to dispose of rubbish or garbage on premises	\$200.00	\$500.00
3.0 k)	Allow conditions that allow infestation	\$200.00	\$500.00
3.0 l) m)	Allow signage to be in disrepair	\$100.00	\$200.00
3.1	Permit or undertake nuisance activity on town property	\$200.00	\$500.00
4	Accumulation of Materials		
4.0	Place any garbage or nuisance material on town property	\$200.00	\$500.00
4.1	Fail to properly screen a salvage yard	\$500.00	\$1000.00
5	Appliances		
5.0	Allow scrap appliance to be visible on property	\$200.00	\$500.00
5.3	Allow a scrap appliance on premises without removing doors	\$200.00	\$500.00
6	Trees or Shrubs		
6.0	Fail to trim tree/shrub and allow to pose threat to safety	\$100.00	\$200.00
7	Noxious Emissions & Dust		
7.0	Fail to contain smoke, steam, dust, noxious emissions or other airborne matter	\$200	\$500.00
8	Graffiti		
8.0	Create or apply graffiti	\$2,500.00	\$5,000.00
8.1	Fail to remove graffiti	\$200.00	\$500.00
9	Water, Eaves Trough Downspouts & Sump Pumps		
9.0	Eaves trough downspouts or similar device not contained in parcel boundary	\$100.00	\$200.00
9.1	Sump pump hose or similar device not contained in parcel boundary	\$100.00	\$200.00
10	Pesticides and Herbicides		
10.0	Pesticide or herbicide use negatively impacts adjacent property	\$200.00	\$500.00
11	Flyers & Debris		
11.0	Fail to contain flyers	\$100.00	\$200.00
11.2	Deposit flyers on a premise with signs prohibiting against	\$100.00	\$200.00
12	Grass		
12.0	Allow grass or herbaceous matter to become 15 centimeters or more	\$100.00	\$200.00
12.1	Allow 1/3 of premise or more to have weeds	\$100.00	\$200.00
13	Excavations, Pond Water, Outdoor Swimming Pools & Hot Tubs		
13.0	Allow excavation or water-course to become a danger	\$200.00	\$500.00
13.2	Allow outdoor hot tub, whirl pool or swimming pool in front yard	\$200.00	\$500.00
14	Obligation to maintain		
14.0	Allow structure or fence to become a safety hazard	\$200.00	\$500.00
14.3	Fail to maintain structure or fence	\$200.00	\$500.00

SECTION	DESCRIPTION OF OFFENCE	A	B
15	Public Behaviors		
15.0	Fighting in public	\$200.00	\$500.00
15.1 a) b)	Defecating or Urinating in a public place	\$200.00	\$500.00
15.2 a) b)	Spitting in a public place	\$100.00	\$200.00
15.3 a) b)	Vomiting in a public place	\$200.00	\$500.00
15.4 a) b) c)	Causing a Disturbance	\$200.00	\$500.00
16	Exemptions & Exceptions		
16.1	Fail to minimize duration and visual impact of unsightly premise	\$200.00	\$500.00