

MOUNTAIN VIEW COUNTY

BYLAW NO. 04/19

UNSIGHTLY PROPERTY BYLAW

Mountain View County
Province of Alberta

Bylaw No. 04/19

A BYLAW OF MOUNTAIN VIEW COUNTY IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ABATEMENT AND CONTROL OF UNSIGHTLY PROPERTY WITHIN MOUNTAIN VIEW COUNTY.

SECTION 1 - AUTHORITY

- 1.01 The Municipal Government Act provides that a Council of a Municipality may pass bylaws for municipal purposes respecting nuisances, including unsightly properties; and
- 1.02 The Council of Mountain View County wishes to establish regulations and penalties for the maintenance and upkeep of private property within the County; and
- 1.03 The Council of Mountain View County wishes to establish penalties and procedures for the abatement of unsightly conditions that affect the safety, health and welfare of persons and the surrounding neighborhood;
- 1.04 Now, Therefore, the Council of Mountain View County, duly assembled, enacts as follows:
- 1.05 This bylaw may be cited as the "Unsightly Property Bylaw".

SECTION 2 - DEFINITIONS

- 2.01 In this Bylaw, unless the context otherwise requires:
 - a. "**Adjacent**" means land that is contiguous to the land that is the subject of a complaint and includes land or a portion of land that would be contiguous if not for a public road, railway, river or stream;

"**Animal Material**" means any animal excrement, offal, carcasses or parts thereof, including all material accumulated on a Property from pet pens, yards, stables, veterinary clinics, hospitals, kennels or feed lots;
 - b. "**Building Material**" means materials from a construction or demolition site that are or include reinforced concrete, asphalt, lumber, timber, metal framing materials, reinforcing steel, glass, ductwork, plaster, drywall, or similar materials, or earth, vegetation, or rock displaced during such construction, alteration, or repair;
 - c. "**Bylaw Enforcement Officer**" means a person who is authorized by Mountain View County to carry out Bylaw Enforcement duties and has taken the official oath as required by the Municipal Government Act.
 - d. "**County**" means Mountain View County duly established pursuant to the laws of Alberta.
 - e. "**Dangerous Property**" means any condition on a Property which, in the opinion of a Designated Officer, may create or constitute a danger to public safety;
 - f. "**Derelict Equipment**" means equipment or machinery that is inoperative by reason of its disassembly, age, or mechanical condition, including any household appliance stored outside of a building regardless of whether it is in an inoperative condition;

- g. **"Derelict Vehicle"** means the whole or any part of a motor vehicle or farm equipment that:
- i) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition and is not located in a building or on a Property such that it can be concealed from view;
 - ii) has no current license plate attached to it and has not been issued a registration certificate for the current year; or
 - iii) is inoperative by reason of removed parts or equipment and is not located within a building or on a Property such that it can be concealed from view;
- h. **"Designated Officer"** means a Development Officer, Bylaw Enforcement Officer, Peace Officer, or any other official appointed by Council to enforce the provisions of this Bylaw or as established by the Approving Authorities Bylaw of Mountain View County.
- i. **"Owner"** means the person as registered on title at the Land Titles Office RSA 2000, c L-4, as amended from time to time;
- j. **"Person"** means an individual or any business entity including a firm, partnership, association, corporation, company, or society.
- k. **"Premises"** means and includes land, buildings, excavations, stockpiles, structures and appurtenances thereto.
- l. **"Municipal Government Act"** means the *Municipal Government Act*, RSA 2000, Chapter M-26 and the respective regulations thereunder;
- m. **"Nuisance"** means the physical condition of, use of, or an emission from a Property which, in the opinion of a Designated Officer, constitutes an unreasonable interference with the use and enjoyment of other private or public Property, including, without limiting the foregoing, Unsightly Property and Dangerous Property;
- n. **"Secretary"** means the Secretary of the Unsightly Property Abatement Committee.
- o. **"Unoccupied Building"** means buildings or structures normally intended for human occupancy but are currently vacant;
- p. **"Unsightly Property Abatement Committee"** means the Council committee established in accordance with the *Municipal Government Act* having the delegated authority of Council to conduct a review of the Order under Section 547 of the *Municipal Government Act*;
- q. **"Unsightly Property" or "Unsightly Condition"** means and includes any use of, or activity upon any premises which is offensive to any person acting reasonably, or has or may be reasonably expected to 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, and without limiting the generality of the foregoing, **may include** the following:
- i) the failure to cut or control grass and vegetation on the premises;
 - ii) permitting a building or structure to deteriorate, become damaged or exist in a ruinous or derelict state;
 - iii) 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;
 - iv) failure to remove dead or hazardous trees or vegetation which is dangerous to the public safety and affecting public lands;

- v) the generation of excessive dust, smoke, steam or other noxious emissions and permitting such dust, smoke, steam or noxious emission to escape from the premises;
- vi) the storage or accumulation of derelict vehicles or the storage of vehicles;
- vii) the storage, stockpile or accumulation of rubbish, garbage or other article or material including, but not restricted to, discarded or derelict furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects;
- viii) the failure to dispose of any rubbish, garbage or other article or material and discarded or derelict furniture or household appliance, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects in a wrecked, discarded, or abandoned condition accumulated upon any premises;
- ix) allowing a hole, excavation or accumulation of material that may be dangerous to public safety or health, to exist on premises;
- x) allowing conditions that result in an infestation of harmful rodents, vermin or insects on the premises;
- xi) the posting or exhibiting of any poster, sign, billboard, placard, writing, drawing or painting, or any signs or messages or pictures upon the premises, where the same becomes in a derelict and unsightly condition.

SECTION 3 - GENERAL PROHIBITIONS

- 3.01 An Owner shall not cause or allow their Property to be a Nuisance, Unsightly Property, or Dangerous Property.
- 3.02 In determining whether a Property is Unsightly as defined in this Bylaw, a Bylaw Enforcement Officer shall regard the normal use and location, as well as the Agricultural identity and operations, of the Property.
- 3.03 Notwithstanding Section 2.01(c) of this Bylaw, the accumulation of Building Material or equipment on a Property where valid Permits exist shall not constitute an Unsightly Property so long as:
- a. the Building Material and equipment are related to the work authorized under a Building Permit; and
 - b. in the opinion of a Designated Officer, the work is currently in progress, the accumulation is not excessive, and all reasonable steps are being taken to minimize the Nuisance, Unsightly, or Dangerous nature of the Property.
- 3.04 The accumulation of Animal Material on Property designated or permitted for use as agricultural lands shall not constitute a Nuisance or Unsightly Property under this Bylaw so long as, in the opinion of a Designated Officer, the accumulation is not considered excessive given the scope and scale of the agricultural activity.

SECTION 4 - COMPLAINT PROCESS - ISSUANCE OF A NOTICE/ORDER

- 4.01 Unsightly premises complaints shall be referred to a Designated Officer.
- 4.02 If the Designated Officer determines a complaint to be valid, the Designated Officer shall attempt to have the unsightly condition remedied by serving a notice as set out in Schedule "A" of this bylaw to the Owner or other Person responsible for the property or both. The notice may include but is not restricted to providing the following directions to the Owner or occupant of the property:

- a. cease the activity which causes the unsightly condition;
 - b. change the way in which such person is carrying out any activity;
 - c. direct any person to take any action or measure necessary to compel the elimination or abatement of the unsightly condition, including:
 - i) the removal of any thing or matter from the property, which constitutes the unsightly condition;
 - ii) the construction, installation or repair of a screen or enclosure; and
 - iii) enter into an agreement in a form for the abatement of the unsightly condition.
 - d. specify the time within which such person must comply with the directions contained in the notice;
 - e. offer the owner or occupant of the property an opportunity to enter into any other voluntary agreement with the County to keep the premises clean, tidy and free of unsightly conditions; and
 - f. specify the time limits within which the actions must be completed.
- 4.03 Notwithstanding Section 4.02, if the Designated Officer determines a complaint to be valid, they may at their unfettered discretion, proceed with the immediate issuance of an Order under Section 4.05 of this Bylaw.
- 4.04 If the Designated Officer determines a complaint to not be valid, the complainant shall be notified in writing of this finding. The complainant may appeal this finding, by way of written request to the Secretary of the Unsightly Property Abatement Committee not more than Fourteen (14) Days from the date the Designated Officer's report is mailed to the complainant and by paying a fee prescribed in Schedule "B".
- 4.05 If the unsightly condition is not remedied through issuance of a Notice, the Designated Officer shall issue an Order under Section 546 of the Municipal Government Act and register that Order to the subject Property's Land Title.
- 4.06 An owner or occupier of property may appeal the order to the Unsightly Property Abatement Committee by way of a written request to the Committee with applicable fee prescribed in Schedule "B", received by the Secretary of the Committee not more than Fourteen (14) Days from the date the order was served.

SECTION 5 – APPEAL PROCESS

- 5.01 If an appeal is brought to the Committee under Section 4.04 or 4.06 of this bylaw, the Committee shall:
- a. set a time and place, within 30 days of receipt of the appeal notice, to hear the results of the investigation.
 - b. notify the complainant, the owner, and occupier of the property in question, and the owner of land that is adjacent to land that is subject of the complaint, of the time and

place set to hear the results of the investigation; at which time the complainant, the owner, and occupier of the property in question, and the owner of land that is adjacent to the land that is subject of the complaint, or a person acting on behalf of that person, and the Designated Officer may appear before the Committee to give information regarding the complaint.

- 5.02 The Committee hearing a complaint under 5.01 is not required to hear from any persons other than the persons notified pursuant to 5.01 (b).
- 5.03 The Committee shall provide its decision in writing together with reasons for the decision within 15 days after concluding the hearing.
- 5.04 If the Unightly Property Abatement Committee determines the order to be valid and that an unsightly condition exists on the property, the Committee shall notify the owner, or occupant of the subject property in writing and require the owner, or occupant of the subject property to remedy, in such manner as the Committee may direct, any condition that constitutes the unsightly condition.
- 5.05 The order shall remain registered to the subject Property's Land Title until such time the order has been complied with or when the County has performed the actions or measures necessary to remedy the contravention as stated in the order. At such time, the caveat shall be discharged from the Land Title by the County.
- 5.06 Any order made by the Committee under this part shall require the owner to remedy the condition constituting the unsightly condition within a period of 30 days, or such other time period that the Committee determines, from the date on which the order made by the Committee is served upon the person.

SECTION 6 - SERVICE OF NOTICE/ORDER

- 6.01 An order issued for a contravention of this Bylaw may be served:
 - a. in the case of an individual:
 - i) by delivering it personally to the individual;
 - ii) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age; or
 - iii) by registered mail addressed to the individual at their apparent place of residence or to any address for the individual listed on the tax roll of the County; or
 - b. in the case of a corporation or partnership:
 - i) by delivering it personally to any director or officer of the corporation or partner of a partnership;
 - ii) by delivering it personally to a Person apparently in charge of an office of the corporation or partnership at an address held out by the corporation or partnership to be its head-office; or
 - iii) by registered mail addressed to the registered office of the corporation or partnership.

- 6.02 In the event that the methods of service listed in Section 6 of this Bylaw prove, in the opinion of the Designated Officer, to be impractical or not likely to be successful, service can be effected by any other means that the Designated Officer determines to be appropriate, including but not limited to:
- a. posting to the Property;
 - b. issuance by regular mail; or
 - c. advertising in a local newspaper or similar publication.

SECTION 7 - FAILURE TO COMPLY WITH ORDER

- 7.01 If a Person to whom an order is issued fails to remedy the Property:
- a. as directed in the order;
 - b. as required by the Unsightly Property Abatement Committee ; or
 - c. within the time specified, as determined by the County in its sole discretion acting reasonably;

the County may, through its Designated Officers, employees, agents, or contractors, enter onto the Property in accordance with the Municipal Government Act in order to remedy the Property as specified under the order or to otherwise prevent the continuing contravention of this Bylaw.

- 7.02 Notwithstanding Section 7.01 of this Bylaw, the County may commence with an application for a permanent injunction or other orders pursuant to the Municipal Government Act instead of, or before proceeding to, entering onto the Property to remedy the contraventions on the Property.
- 7.03 The County shall not be responsible for any incidental damage that may occur to a Property subject to an order as a reasonable consequence of the County exercising its rights under this Bylaw.
- 7.04 In the event that the County comes into possession of any items as a consequence of exercising its rights under this Bylaw:
- a. the County shall store those items for a period of 30 days and shall not be required to return any items stored in accordance with this Section until the Person to whom an order was issued pays any removal and storage costs incurred by the County;
 - b. After 30 days, any unclaimed items may be disposed of by the County in accordance with the Municipal Government Act and, if sold, the County may apply any monies realized from the sale to the expenses and costs incurred by it in accordance with Section 8 of this Bylaw;
 - c. Notwithstanding Section 7.04 (i), if, in the opinion of a Designated Officer, the items are unsafe, unsanitary, and/or perishable, the items may be disposed of at any time.

SECTION 8 - COUNTY COSTS

8.01 Any expenses or costs incurred through any enforcement action or measure taken by the County under this Bylaw, including the receipt of legal advice, are amounts owing to the County by the Owner or any other Person responsible for the contravention of this Bylaw and may be collected as a civil debt or added to the tax roll for the Property pursuant to the Municipal Government Act.

SECTION 9 - AUTHORITY TO ENTER PREMISES

- 9.01 A Designated Officer of the municipality may, as per the *Municipal Government Act*,
- a. enter such land or structure (other than a residence) at any reasonable time, and carry out the inspection, enforcement or action authorized or required by this bylaw,
 - b. request anything be produced to assist in the inspection, remedy, enforcement or action, and,
 - c. make copies of anything related to the inspection, remedy, enforcement or action.
- 9.02 Prior to exercising their authority to enter onto a Property to conduct an inspection, the Designated Officer shall provide the Owner with reasonable notice unless, in the opinion of the Designated Officer, an emergency or extraordinary circumstance exists pursuant to the *Municipal Government Act*.

SECTION 10 - GENERAL PENALTIES

10.01 A person convicted of an offence against this bylaw is liable to a fine of not less than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) or to imprisonment of not more than 12 months, or to both fine and imprisonment.

SECTION 11 - SEVERABILITY

11.01 Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

SECTION 12 - REPEAL OF BYLAW

12.01 Bylaw 04/09 is hereby repealed.


SECTION 13 - EFFECTIVE DATE

13.01. This Bylaw shall come into effect at such time as it has received third (3rd) reading and has been signed in accordance with the *Municipal Government Act*.

Read the first time this 26 day of June 2019.

Read the second time this 26 day of June 2019.

Read the third time this 3 day of July 2019.



Reeve



Chief Administrative Officer

July 3, 2019

Date of Signing

Bylaw No. 04/19
Unsightly Property Bylaw

SCHEDULE "A"

MOUNTAIN VIEW COUNTY
UNSIGHTLY PROPERTY ABATEMENT NOTICE

Dated: _____

To: _____

And to: _____

With respect to those premises located at:

Pursuant to the Unsightly Property Bylaw of Mountain View County, the *Municipal Government Act* and the *Provincial Offences Procedure Act*, the above referenced persons as owner, agent, lessee or occupier of land or premises within Mountain View County shall remedy the following condition(s) on the above-said land or premises on or before _____.

In the event the above conditions are not remedied within the deadline set out above, the County may thereafter immediately cause to be done any work necessary to remedy the condition, and the cost will be charged to you and other fines and penalties may result as permitted by the Unsightly Property Bylaw.

If you feel yourself aggrieved by this Notice, you may appeal the notice by delivering an appeal in person or sending an appeal by mail to the Secretary of the Unsightly Property Abatement Committee at Postal Bag 100, Didsbury, AB TOM OWO, within fourteen (14) days of the date of service of this Notice on you.

Thank you for your cooperation.

Community Peace Officer
(403) 335-3311

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Unsightly Property Bylaw**

SCHEDULE "B"

FEE SCHEDULE

No fee shall be payable by Mountain View County.

Any appeal made pursuant to Section 4.04 or Section 4.06 shall be accompanied by a fee of \$425.00, which shall be refunded if the applicant's appeal is successful.