

**BY-LAW NO. 770-10  
MACKENZIE COUNTY**

A By-law of the Mackenzie County, in the Province of  
Alberta, to regulate unsightly premises.

**WHEREAS** under the Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26, Council may pass bylaws regulating unsightly premises;

**AND WHEREAS** unsightly premises are a detriment to surrounding properties and the immediate neighborhood generally;

**AND WHEREAS** Council deems it advisable to pass a bylaw to regulate unsightly premises;

**AND WHEREAS** the purpose of this Bylaw is to prevent the existence and proliferation of unsightly premises and to provide a mechanism for the remediation of a property which has become an unsightly premises;

**NOW THEREFORE, THE COUNCIL OF MACKENZIE COUNTY ENACTS AS FOLLOWS:**

**1. GENERAL**

- 1.1 This Bylaw shall be cited as the Unsightly Premises Bylaw.
- 1.2 In this bylaw, whenever the male gender is specified, it shall be interpreted as meaning both male and female as applicable.
- 1.3 The provision 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 carried out on, or in relation to a premises.
- 1.4 Regard shall be given to the use and location of the property (ie. residential, commercial, industrial, acreage, farm, or located along major public roadway), as well as conditions of any public property which is adjacent to such property (for example slope of ditches, ditches filled with water or gravel), in determining what remedies should be taken and whether a premise is an unsightly premise.
- 1.5 Regard shall be given to the available disposal facilities within the County and/or neighboring municipalities that will able an Owner to comply with this bylaw.
- 1.6 If a complaint is received from a resident regarding a premise being unsightly, a warning letter shall be issued to the Owner by the County's Administrator prior

to issuing a Clean-up Order. The letter shall outline nature of a complaint and advising that an inspection of the property will be undertaken by an Enforcement Officer within 10 (ten) calendar days from the warning letter date. If upon inspection, a property, for which a complaint is made, is found to be unsightly, a Clean-up Order may be issued as specified in this bylaw.

## **2. DEFINITIONS**

2.1 In this Bylaw, unless the context otherwise requires, the term (in alphabetical order):

- a) "Animal material" means any animal excrement and includes all material accumulated on a premises from pet pens, yards, stables, veterinary clinics or hospitals, kennels or feed lots;
- b) "Ashes" means the powdery residue accumulated on a premises left after the combustion of any substance and includes any partially burnt wood, charcoal or coal;
- c) "Building material" means all construction and demolition material accumulated on a premises while constructing, altering, repairing or demolishing any structure and includes, but is not limited to, earth, vegetation or rock displaced during such construction, alteration or repair;
- d) "County Administrator" means the person designated by Council as the County's Chief Administrative Officer or his/her designate;
- e) "County" means the municipal corporation of the Mackenzie County;
- f) "Clean-up Order" means an Order issued under this bylaw by the County Administrator with respect to an unsightly premises within the County;
- g) "Enforcement Officer" means County Administrator, an enhanced policeman, or any employee of the County that is designated by the County Administrator to carry out enforcement powers under this bylaw;
- h) "Equipment" and/or "machinery" means units which have been rendered inoperative by reason of its disassembly, age or mechanical condition and includes any household appliances;
- i) "Fence" means a permanent enclosing material, maximum six foot height, of wood, steel or like materials designated to provide visual screening and not detract from surrounding neighborhood, as permitted by the County's land use bylaw;

- j) "Garbage" means materials of every description or kind, or abandoned, discarded, or rejected goods disposable in a garbage can or receptacle and includes bottles, metal cans or tins, crockery, glass, grass cuttings, paper, cloth, food, food waste, wrappings, sweepings and the like;
- k) "Occupant" means any person other than the registered owner who is in possession of the Property, including but not limited to, a lessee, licensee, tenant or agent of the Owner.
- l) "Owner" means:
  - i) A Person who is registered under the Land Titles Act as the owner of the land;
  - ii) A Person who is recorded as the owner of the property on the assessment roll of the County;
  - iii) A Person holding himself out as the person having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership;
  - iv) A Person controlling the property under construction, or;
  - v) A Person who is the occupant of the property under a lease, license or permit.
- m) "Premises" means the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building or buildings, situated in whole or in part in the County and includes lands or buildings owned or leased by the County;
- n) "Reasonable State of Repair" means the condition of being:
  - i) structurally sound;
  - ii) free from damage;
  - iii) free from rot or other deterioration; and safe for its intended use.
- o) "Right of access" means the right of an Enforcement Officer to enter onto a property to inspect the property to determine whether to issue a Clean-up Order, or to allow work forces access to the property for the purposes of enforcing a Clean-up Order;
- p) "Trash" means materials of every description or abandoned, discarded or rejected goods not disposable in a garbage can or receptacle, included but not limited to trailers, sheds, shacks;
- q) "Work forces" means County employees or contract workers engaged by the County for the purposes of enforcing a Clean-up Order;

- r) "Yard material" means organic matter formed as a result of gardening or horticultural pursuits and includes grass, tree and hedge cuttings and clippings;
- s) "Weeds" means weeds as defined by the Weed Control Act.

3. **RESPONSIBILITIES OF OWNER**

3.1 Property owners shall keep such property and any public property which abuts or flanks such property, in a presentable condition and shall:

- a) Remove garbage, yard material, animal material, building material, and ashes as it accumulates;
- b) Prune and remove trees or shrubs in deteriorating condition located on the premises;
- c) Cut grass and control dandelions and other noxious weeds;
- d) Remove any vehicles, equipment, machinery, trash, or parts thereof;
- e) Not suffer or permit trees, or other vegetation growing on the property to interfere or endanger the lines, poles, conduits, pipes, sewers, public utility laneways or other works of the County;

3.2 Owner of a property in urban areas shall:

- a) maintain all buildings, structures and improvements to their property so that:
  - i) the foundations;
  - ii) exterior walls;
  - iii) roof;
  - iv) windows, including frames, shutters and awnings;
  - v) doors, including frames and awnings;
  - vi) steps and sidewalks; and
  - vii) fences;

are kept in a Reasonable State of Repair.

- b) maintain all fixtures, improvements, renovations, or additions to any building, structure or improvement on their property, including but not limited to:
  - i) exterior stairs;
  - ii) porches;
  - iii) decks;
  - iv) patios;

- v) landings;
- vi) balconies; or
- vii) other similar structures

shall be maintained in a Reasonable State of Repair.

#### 4. **UNSIGHTLY PREMISES**

4.1 Unsightly Premises shall mean any property, whether land, buildings, improvements to lands or buildings, personal property, or any other combination of the above, located on land within the County that, in the opinion of Council, County's Administrator or an Enforcement Officer is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the unsightly premises, or is otherwise detrimental to the surrounding area or in an unsightly condition as defined by the Municipal Government Act.

4.2 In determining whether a premise is an unsightly premise, an Enforcement Officer shall use the following guideline:

- a) A property or part of it is unsightly when it is characterized by visual evidence of a lack of general maintenance and upkeep by the excessive accumulation on the premises, or any other hazard or condition which poses a danger to public safety:
  - i) Any garbage, trash, building material, ashes, manure, human excrement or sewage, animal material or the whole or a part of an animal carcass, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery;
  - ii) Uncontrolled grass and weeds on premises;
  - iii) The whole or part of any motor vehicle or vehicles which has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year, and which is inoperative by reason of removed parts, or equipment;
  - iv) The lack of repair or maintenance of buildings, structures or Property, including but not limited to:
    - i) the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements;
    - ii) broken or missing windows, siding, shingles, shutters, eaves or other building material; or

iii) significant fading, chipping or peeling of painted areas of buildings, structures or improvements on Property.

4.3 If an Enforcement Officer has reason to believe that any property is an unsightly premise he may exercise a right of access to the property in order to inspect the premises to determine whether the property contravenes the provisions of this Bylaw.

5. **ISSUING A CLEAN-UP ORDER**

5.1 If an Enforcement Officer considers any property to be an unsightly premise, the Enforcement Officer may issue a Clean-up Order.

5.2 Each Order:

- a) Shall describe the property by
  - i) name, if any, and
  - ii) the municipal address and/or legal description
- b) Shall state that the property contravenes the provisions of this Bylaw.
- c) Shall give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made.
- d) Shall state that the clean up, removal, clearing or other actions must be done within 21 (twenty one) calendar days from the Order date;
- e) Shall state that if the required actions are not done within the time specified, the County may carry out the actions required and charge the cost thereof against the person to whom the Order is directed and if such person does not pay the costs, the costs shall be charged against the property concerned as taxes due and owing in respect of that property, and recovered as such.

5.3 The Order shall be served upon the owner of the property and a copy may be served on any person shown by the records of the Land Titles Office to have an interest in the property.

5.4 An Order may be served:

- a) by being delivered personally to the person who is intended to be served;
- b) by being left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served; or

- c) by being sent by registered mail to the last known address of the person who is intended to be served as shown on the assessment roll of the County and the Order shall be deemed to be served upon the expiry of five (5) days after the mailing of the Order.

5.5 If, in the opinion of the Enforcement Officer, service under subsection (5.4) cannot reasonably be effected, the Enforcement Officer may post the Clean-up Order or a copy of the Order in a conspicuous place on the land or property to which the Order relates, or on the private dwelling place of the person who is intended to be served and such Order is deemed to be served upon the expiry of five (5) calendar days after such Clean-up Order is posted.

5.6 County Administrator may extend the time for carrying out a Clean-up Order.

## **6. APPEALING A CLEAN-UP ORDER**

6.1 An Owner or Occupant who receives a written Order under this bylaw may request a review of the Order by written notice to Council within fourteen (14) days of the day on which the Order is received. Upon reviewing the Order, Council may confirm, vary, substitute or cancel the Order.

6.2 An Owner or Occupant or other person affected by the decision of Council under Section 6.1 may appeal to the Court of Queen's Bench, within the time period set out in the *Municipal Government Act*, Section 548.

## **7. FAILURE TO ACT BY AN OWNER UPON ISSUANCE OF A CLEAN-UP ORDER**

7.1 The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer.

7.2 If a person to whom an Order is directed under this Bylaw fails to carry out the Order within the time stated in such Order, an Enforcement Officer may exercise a right of access to the unsightly premises and may, with whatever work forces as are necessary, enter the premises against which the Order has been issued and carry out the Order.

7.3 The County or persons appointed by it may remove any fencing or other obstructions in carrying out the Order and shall replace or repair any fencing or other obstructions removed or damaged in the course of carrying out the Order.

## **8. EXPENSES INCURRED IN CARRYING OUT A CLEAN-UP ORDER**

8.1 All and any expenses incurred by the County in carrying out an Order under this section constitutes a debt owing to the County from the person to whom the Order is directed.

8.2 The following rates shall apply:

- a) If a third party was engaged in carrying out the Order under direction of an Enforcement Officer, the actual expense plus 5% shall be invoiced to the Owner;
- b) If the County's work forces were used in carrying out the Order under direction of an Enforcement Officer, the Owner shall be invoiced double the rate specified in the County's Fee Schedule Bylaw in place at the time of clean-up.

9. **MATERIALS COLLECTED IN CARRYING OUT A CLEAN-UP ORDER**

- 9.1 Where the County carries out an Order under this Section the work forces shall deposit any material removed from an unsightly premises at a location designated by the County Administrator.
- 9.2 Notwithstanding subsection (9.1) where an Enforcement Officer is of the opinion that the material removed under subsection (9.1) has no value he may direct that the material be disposed of.
- 9.3 When material removed from an unsightly premise is removed to a location specified by the County Administrator, the County Administrator may direct that the property be disposed of if the person to whom an Order has been issued does not remove the property within fourteen (14) days of being requested in writing to do so by the County Administrator.
- 9.4 If the County sells all or part of a building, structure or improvement that has been removed under this Bylaw, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the Owner or Occupant, if entitled to them.

10. **PENALTIES FOR NON-COMPLIANCE WITH THIS BYLAW**

10.1 A person is guilty of an offence and liable for non-compliance with this bylaw.

Clean-up Order is issued as:	Compliance with Clean-up Order	Non-compliance with Clean-up Order
First offence	No Fine	\$250 Fine
Second offence	\$250 Fine	\$250 Fine
Third offence	\$250 Fine	\$250 Fine
Fourth and subsequent Offence	\$250 Fine	\$250 Fine



11. **ADDING AMOUNTS OWING TO A TAX ROLL**

11.1 Within thirty (30) days of ascertaining the amount of the expenses incurred by the County in carrying out the Order to the Owner or issued as a fine per Section 9, a demand for payment shall be sent of these expenses to the person to whom the Order was directed.

11.2 Where the person to whom the Order is directed and a fine is issued per Section 9 fails, within thirty (30) days after a demand for payment, to pay the fines and expenses incurred by the County, the total outstanding amount shall be placed on the tax roll as an additional tax against the land concerned and that amount:

- a) forms a lien on the land in favour of the County, and
- b) shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the Municipal Government Act from the date the expenses were incurred.

12. This Bylaw shall come into force and effect upon receiving third reading and shall repeal Bylaw 137/98 and Bylaw 298/02.

READ a first time this 10<sup>th</sup> day of August, 2010.

READ a second time this 10<sup>th</sup> day of August, 2010.

READ a third time and finally passed this 25<sup>th</sup> day of August, 2010.

(original signed)

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Greg Newman  
Reeve

(original signed)

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William Kostiw  
Chief Administrative Officer