

**BY-LAW NO. 1325-24
MACKENZIE COUNTY**

A Bylaw 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 Council recognizes that Mackenzie County is geographically large and diverse area and unsightly and dangerous properties are a blight on the community and detrimental to surrounding areas throughout Mackenzie County;

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 An Owner shall not cause or allow their Property to be a Nuisance, Unsightly Property, or Dangerous Property.
- 1.3 An Owner shall maintain all Property in a Reasonable State of Repair.
- 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.

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) **“Dangerous Property”** means any condition on a Property which, in the opinion of a Enforcement Officer, may create or constitute a danger to public safety;
- g) **“Enforcement Officer”** As per the MGA section 555(1) and (2) a person who is appointed as a bylaw enforcement officer is, in the execution of enforcement duties, responsible for the preservation of public peace. Bylaw enforcement officers must take the official oath prescribed by the *Oath of Office Act* before starting their duties.
- 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) **“Municipal Tag”** means a tag or similar document issued by the Municipality pursuant to the Municipal Government Act for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow;

- l) **“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.

- m) **“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.

- n) **“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;

- o) **“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.

- p) **“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 Enforcement Order, or to allow work forces access to the property for the purposes of enforcing a Order;

- q) **“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;

- r) **“Work forces”** means County employees or contract workers engaged by the County for the purposes of enforcing a Clean-up Order;

- s) **“Yard material”** means organic matter formed as a result of gardening or horticultural pursuits and includes grass, tree and hedge cuttings and clippings;

- t) **“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 including branches that hang over adjacent land Owners or alleyways;
- 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 In accordance with section 541 and 546 of the MGA, unsightly property is

- a) “detrimental to the surrounding area” includes causing the decline of the market value of property in the surrounding area;
- b) “unsightly condition”,
 - (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and
 - (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.

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, accumulation of construction/ 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 taller than 15 centimeters
 - 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 the Enforcement Officer will enter the property after issuing a notice to the Owner pursuant to section 543 of the MGA. If access is denied, the Officer may seek a Court Order to inspect pursuant to section 543 of the MGA:

4.4 The Court may issue an order:

- (a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action, or
- (b) requiring the production of anything to assist in the inspections, remedy, enforcement or action.

5. **ISSUING A MUNICIPAL TAG OR ENFORCEMENT ORDER**

5.1 If an Enforcement Officer considers any property to be an unsightly premise, the Enforcement Officer may issue Municipal Tag or an Enforcement Order.

5.2 Each Municipal Tag 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 the specific timeline determined by the Enforcement Officer in accordance with Section 545 or 546 of the Municipal Government Act. The timeline will vary due to how the order can be served and which municipal act is being enforced.
- 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.
- f) A statement that the Person named in the Order may, by written notice, request for a review of the Order by Council.

- 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 an Enforcement 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.
- (1) 14 days after the date the Order is received, in the case of an Order issued under Section 545 of the ***Municipal Government Act***; and
 - (2) 7 days after the date the Order is received, in the case of an Order issued under Section 546 of the ***Municipal Government Act***.

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 will enter the property after issuing a notice pursuant to section 543 of the MGA. If access is denied, the Officer may seek a Court Order to inspect pursuant to section 543 of the MGA.

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 owner shall be charged the actual costs for the contracted work as per the MGA.
 - 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 the full rate specified in the County's Fee Schedule Bylaw as per the MGA.

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, and under section 610 of the MGA such items must be retained for 30 days unless they are unsafe, unsanitary or perishable, in which case they can be disposed of at any time.
- 9.2 Section 610 of the MGA:

610 Lost or unclaimed property

 - (1) Lost or unclaimed property coming into the possession of a municipality must be retained for at least 30 days from the date it comes into possession of the municipality unless it is unsafe, unsanitary or perishable, in which case it may be disposed of at any time.

(2) If the property is not claimed within 30 days, it becomes the property of the municipality and the municipality may dispose of the property by public auction or as the council directs.

(3) The purchaser of lost or unclaimed property is the absolute owner of it.

(4) A prior owner of lost or unclaimed property is entitled to the proceeds of the sale less all expense incurred by the municipality if the prior owner makes a claim to the municipality within 90 days after the date of the sale.

(5) If the sale proceeds are not claimed within 90 days from the date of sale, the rights of any prior owner to the sale proceeds are extinguished and the sale proceeds belong to the municipality.

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.

Offence	Minimum And Specified Penalty	Second Offence	Third Offence	Fourth and Subsequent Offences
Owner causes, allows, or permits Property to become a Nuisance, Unsightly, or Dangerous Property	\$500	\$1,000	\$2,000	\$4,000
Fails to maintain Property in a Reasonable State of Repair.	\$500	\$1,000	\$2,000	\$4,000
Fails to Carry out the Order as directed.	\$1000	\$2,000	\$3,000	\$5,000

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

finances 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 as per section 553(1)(c) of the MGA:

Section 553(1) A council may add the following amounts to the tax roll of a parcel of land:

(c) unpaid expenses and costs referred to section 549(5)(a), if the parcel's owner contravened the enactment or bylaw and the contravention occurred on all or part of the parcel.

SECTION 12 EFFECTIVE DATE

12.1 This Bylaw rescinds Bylaw 908-13.

12.2 This Bylaw shall come into full force and effect upon third and final reading.

READ a first time this 13th day of February, 2024.

READ a second time this 13th day of February, 2024.

READ a third time and finally passed this 13th day of February, 2024.

(original signed)

Joshua Knelsen
Reeve

(original signed)

Darrell Derksen
Chief Administrative Officer