

YELLOWHEAD COUNTY

BYLAW NO. 13.05

BEING A BYLAW OF YELLOWHEAD COUNTY IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING, CONTROLLING, AND ABATING PUBLIC NUISANCES, UNTIDY PREMISES AND UNSIGHTLY PREMISES

WHEREAS, the Section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended authorizes Council to pass bylaws respecting nuisances, including unsightly property; the safety, health and welfare of people; and the protection of people and property; and

WHEREAS, Council deems it necessary to implement a Bylaw to establish and enforce minimum standards relating to the state of maintenance of property, to regulate, control and abate nuisances generally, and to regulate untidy and unsightly premises within Yellowhead County;

NOW THEREFORE, the Council of Yellowhead County pursuant to that authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

1. TITLE

This bylaw may be cited as the “Nuisance, Untidy and Unsightly Premises Bylaw”.

2. DEFINITIONS

- a) “Animal Material” shall mean any animal excrement and includes all material accumulated on a premises from pet pens or pet yards, stables, veterinary clinics, animal hospitals, kennels, or shelters or any similar uses;
- b) “Abandoned Equipment” shall mean equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition.
- c) “Abandoned Vehicle” shall mean the whole or any part of any motor vehicle or farm implement that is in a rusted, wrecked, partly wrecked, in a dismantled condition, or partly dismantled condition and is not located in a building or located on the property such that it can be concealed from view.
- d) “Building Material” shall mean 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, wood debris, vegetation or rock displaced during such construction, alteration or repair;
- e) “Council” shall mean the Council for Yellowhead County.
- f) “County” shall mean the Municipality of Yellowhead County and the area contained within its boundaries as the context requires;
- g) “Court” shall mean the Provincial Court of Alberta;

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- h) “Designated Officer” shall mean a Bylaw Enforcement Officer, Special Constable or a member of the Royal Canadian Mounted Police or any other person so authorized to act on behalf of the Council of Yellowhead County.
- i) “Subdivisions or Hamlets” shall mean any land zoned as Country Residential Subdivision or zoned as a designated Hamlet within Yellowhead County jurisdiction, as amended.
- j) “Litter” shall have the same meaning as in the Litter Act and the Regulation there under.
- k) “Motor Vehicle(s)” shall have the same meaning as in the Traffic Safety Act and the Regulations there under.
- l) “Occupant” shall mean any person other than the Owner who is actually occupying, legally responsible or is in possession of the Property, including, but not restricted to, a lessee, licensee, tenant or agent of the Owner.
- m) “Owner” shall mean:
- i. a person who is registered under the Land Titles Act as the owner of the land or;
 - ii. the person who is recorded as the owner of the Property on the assessment roll of the County or;
 - iii. a person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not become the registered owner thereof or;
 - iv. 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 or;
 - v. a person controlling the property under construction.
- n) “Property” shall include a parcel of land and a parcel of land and the improvements located on the land.
- o) “Public Nuisance” shall mean:
- i. Any condition or use of Property which, in the opinion of a Designated Officer, constitutes an unreasonable interference with the use and enjoyment of other Property and includes, without limiting the forgoing, those conditions set out in Section 3 (b) or;
 - ii. anything that is annoying, unpleasant or obnoxious and shall include, but not be limited to litter; or
 - iii. any act or emission which obstructs, or causes inconvenience, or damage to the public within Yellowhead County.
- p) “Reasonable Notice” shall mean 48 hrs notice
- q) “Reasonable State of Repair” shall mean the condition of being:
- i. structurally sound;
 - ii. free from significant damage;
 - iii. free from rot or other deterioration;
 - iv. safe for its intended use;

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- r) “Refuse” shall mean all solid and liquid wastes including, but not limited to, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, abandoned equipment, abandoned vehicles, tires, or any other form of waste or litter.
- s) “Regularly Maintained” shall include not allowing the grass to exceed 25cm in height.
- t) “Remedial Notice” a warning to the owner or person responsible, in form of written notice, stating the contravention and expected date of which to remedy the situation.
- u) “Untidy” shall mean:
- i. any property that, in the opinion of the Designated Officer is not in keeping with the condition of surrounding properties. This includes properties that may have a detrimental effect upon the market value of property in the surrounding area or;
 - ii. any property or premise located within Yellowhead County that, in the opinion of the Designated Officer is not Regularly Maintained, the vegetation is not cut or trimmed or is not free of weeds or;
 - iii. land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighbouring property and shall also include grass, plants and vegetation which is not trimmed;
- v) “Unsightly Premises” shall mean:
- i. in respect of Property, including that which, in the opinion of the Designated Officer shows serious signs of disregard for general maintenance or upkeep and/or;
 - ii. properties on which refuse from domestic, commercial or industrial activities including, but not limited to grass, tree and hedge clippings and other animal material or waste are located and/or;
 - iii. in respect of a structure, includes a structure whose exterior, in the opinion of the Designated Officer shows signs of significant physical deterioration and/or;
 - iv. in respect of motor vehicle(s), unregistered an/or inoperative motor vehicles, motor vehicles that are collected, sold, accumulated or to be stored upon any Property owned or occupied by him, or under his responsibility, or upon Municipal Property adjoining Property owned or occupied by him or under his responsibility, unless such a site has received the required permits from the County and/or;
 - v. the presence of accumulation of refuse, dirt, stone, garden refuse, dead leaves or grass, construction materials, implements, abandoned vehicles and/or parts thereof, and abandoned equipment and/or;
 - vi. the presence of fences, signs, billboards, garbage containers, playground equipment, or anything used, or erected on the property which in the opinion of the Designated Officer, are not kept in a Reasonable State of Repair.
- w) “Violation Ticket” shall mean a ticket issued pursuant to Part 2 of the Provincial Offences Procedure Act and any regulations there under.
- x) In this Bylaw, whenever the male gender is specified it shall be interpreted as meaning both male and female as applicable.

3. GENERAL PROHIBITIONS

- a. No owner or owners, agent, lessee or occupant of a Property shall cause, allow or permit the Property to become or to continue to be an Unsightly Premise.
- b. No owner or owners, agent, lessee or occupant of a Property shall cause, allow or permit the Property to become or continue to be a Public Nuisance.

4. MAINTENANCE STANDARDS IN DESIGNATED SUBDIVISIONS AND HAMLETS

- a. No owner or owners, agent, lessee or occupier of a Property in designated Subdivisions or Hamlets shall allow or permit the Property to become or continue to be Untidy.
- b. All buildings, structures and improvements to Property in designated Subdivisions or Hamlets shall be maintained so that:
 - i. the foundations;
 - ii. exterior walls;
 - iii. roof;
 - iv. windows;
 - v. steps and sidewalks and
 - vi. fences;are kept in a Reasonable State of Repair.
- c. All fixtures, improvements, renovations, or additions to any building, structure or improvement to Property within a designated Subdivision or Hamlet, including, but not limited to:
 - i. exterior stairs;
 - ii. porches;
 - iii. decks;
 - iv. landings;
 - v. balconies; or
 - vi. other similar structuresshall be maintained in a Reasonable State of Repair.

5. EXEMPTIONS & EXCEPTIONS

- a. The provisions in this Bylaw shall not be interpreted to prevent bona fide work diligently carried out in accordance with a development permit issued by the Development Authority such as; commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other related activities from being carried out on, or in relation to a Property.
- b. The Owner of a Property that carries on or permits the carrying on of any activities referred to in Section 5(a) 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 Property.
- c. Whether or not an Owner has taken all reasonable steps to minimize the duration and visual impact of any resulting untidiness or unsightliness of the Premise, as referred to in Section 5(b) of this Bylaw, is a question of fact to be determined by the Court hearing a prosecution of an offence pursuant to the provisions of this Bylaw.

6. ENFORCEMENT

- a. The Designated Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter upon any Property, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other action required or authorized by this Bylaw, the *Municipal Government Act*, or other statute.
- b. When exercising his authority to enter onto a Property for inspection or enforcement under Section 6(a), the Designated Officer shall provide the Owner or Occupant of the Property with Reasonable Notice.
- c. Where a Designated Officer has reasonable grounds to believe that a person has violated any provision of this bylaw, the Designated Officer may commence enforcement against such person by issuing a Remedial Notice giving a specified time to remedy violation.
- d. Where a Designated Officer has reasonable grounds to believe that a person has violated any provision of this bylaw, the Designated Officer may commence court proceedings against such person by;
 - i. Issuing the Person a Violation Ticket pursuant to the provision of Part 2 of the *Provincial Offences Procedure Act*; or
 - ii. Swearing out an Information and Complaint against the Person.
- e. Where a Designated Officer issues a Violation Ticket in accordance with Section 6(c) of this Bylaw, the Officer may either;
 - i. Require the person to pay the specified penalty as provided for the offence in Sections 7 of this Bylaw by including such specified penalty in the Violation Ticket; or
 - ii. Require a Court appearance of the Person where the Designated Officer believes that such appearance is in the public interest, pursuant to the provisions of part 2 of the *Provincial Offences Procedure Act*.
- e. No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the County from pursuing any other remedy in relation to a Property provided by the Municipal Government Act, or any other law of the Province of Alberta.
- f. Notwithstanding whether a Violation Ticket has been issued under Section 6 (c) of this Bylaw, any Owner or Occupant who contravenes this Bylaw may be issued an Order by a Designated Officer to remedy the contravention in any manner deemed necessary in the circumstances pursuant to Section 545 or Section 546 of the Municipal Government Act.

7. PENALTIES

- a. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty as set out in Schedule "A" of this Bylaw.
- b. Where a contravention of this Bylaw is of a continuing nature, more than one Violation ticket may be issued by a Designated Officer provided however, that no more than one Violation Ticket shall be issued for each day that the contravention continues.

SCHEDULE "A"
SPECIFIED PENALTIES

| SECTION | DESCRIPTION | FIRST OFFENCE | SUBSEQUENT OFFENCE |
|----------------|---|----------------------|---------------------------|
| 3(a) | Unsightly Premises | \$ 300.00 | \$ 500.00 |
| 3(b) | Public Nuisance | \$ 250.00 | \$ 400.00 |
| 4(a) | Untidy Premises in a Subdivision or Hamlet | \$ 150.00 | \$ 250.00 |
| 4(b)&(c) | Failure to keep property in a Reasonable State of Repair in a Subdivision or Hamlet | \$ 150.00 | \$ 250.00 |

- c. If the Designated Officer has reasonable grounds to believe that a person has contravened any provisions of this Bylaw, such Officer may serve upon such person an offence ticket allowing payment of the specified penalty to Yellowhead County, which payment shall be accepted by the County in lieu of prosecution for the offence.

8. AUTHORITY TO ENTER LANDS

- a. Subject to s. 543 of the *Municipal Government Act*, an enforcement officer or designated officer of the municipality may, after giving Reasonable Notice to the owner or occupier of the land, enter the land to carry out the inspection, remedy, enforcement or action:
 - i. enter such land at any reasonable time, and carry out the inspection, enforcement or action authorized or required by this bylaw;
 - ii. request anything be produced to assist in the inspection, remedy, enforcement or action, and;
 - iii. make copies of anything related to the inspection, remedy, enforcement or action.
- b. The Designated Officer must, on request, display or produce identification showing that the person is authorized to make the entry.

9. SEVERABILITY

If at any time, any provisions of this Bylaw is declared or held to be illegal, invalid, or ultra vires, in whole or in part, then the provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

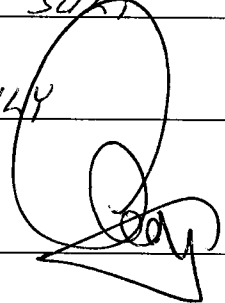
This Bylaw shall come into force and take effect upon the final passing and proper signature thereof.

READ a first time this 28 day of JUNE, A.D., 2005.

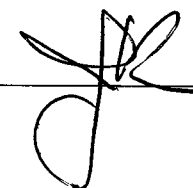
READ a second time this 28 day of JUNE, A.D., 2005.

READ a third and final time this 219 day of JULY, A.D., 2005.

SIGNED this 19 day of JULY, A.D., 2005.



 Reeve



 Chief Administrative Officer