



## BYLAW NO XXXX

### UNSIGHTLY PREMISES BYLAW

#### A BYLAW OF KNEEHILL COUNTY, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE ABATEMENT AND CONTROL OF UNSIGHTLY PROPERTY

**WHEREAS** the *Municipal Government Act*; authorizes a municipality to pass bylaws respecting the safety, health and welfare of people and protection of people and property;

**AND WHEREAS** the *Municipal Government Act*; authorizes a municipality to pass bylaws respecting nuisances, including Unsightly Property;

**AND WHEREAS** the *Municipal Government Act*; authorizes a municipality to pass bylaws regarding the remedying of contraventions of Bylaws;

**NOW THEREFORE**, the Council of Kneehill County, duly assembled, enacts as follows:

#### **PART ONE INTRODUCTION**

##### **1. TITLE**

**This Bylaw shall be known as the “Unsightly Premises Bylaw”.**

##### **2. DEFINITIONS**

**In this bylaw the following words and phrases mean:**

- a. **“Agricultural Practices”** means agricultural practices that are conducted in a manner consistent with appropriate and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances or lands.
- b. **“Animal Material”** means any animal excrement, offal, carcasses, including material from pet pens, yards, stables, or kennels.
- c. **“Building Material”** means materials from a construction or demolition site that may include concrete, asphalt, lumber, steel, glass, plaster, drywall, earth, rock or similar materials displaced during construction or repair.
- d. **“Construction”** means the temporary process of demolishing or building any Structure or repairing or improving a building that already exists, including landscaping, home repairs, Property improvement and any work in connection with that process;
- e. **“Council”** means the Council of Kneehill County.

- f. **“County”** means the municipality of Kneehill County.
- g. **“Court”** means the Provincial Court of Alberta.
- h. **“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.
- i. **“Designated Officer”** means the person appointed by Council to enforce the provisions of this Bylaw with authorities and duties defined in the MGA.
- j. **“Enforcement Officer”** means a bylaw enforcement officer, a community peace officer employed by Kneehill County, or member of the RCMP.
- k. **“LUB”** means Kneehill County’s Land Use Bylaw as amended from time to time.
- l. **“Motor Vehicle”** means a Motor Vehicle as defined in the *Traffic Safety Act*, RSA 2000, c. M26 as amended or replaced from time to time.
- m. **“MGA”** means the *Municipal Government Act*, RSA 2000, c. M26 as amended or replaced from time to time.
- n. **“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.
- o. **“Order”** means an Order as described in the *Municipal Government Act*, or Part 2 of this Bylaw.
- p. **“Owner”** means:
  - i. The Person as registered on the title at the Land Titles Offices;
  - ii. A Person who is recorded as the Owner of the Property on the County’s assessment roll;
  - iii. A Person who has purchased or otherwise acquired Property, whether purchased or acquired directly from the Owner or from another purchase, and has not become the registered Owner thereof;
  - 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.
- q. **“Person”** includes a corporation, an individual, and their heirs, executors, administrators or other legal representatives of an individual.
- r. **“Pest”** means any animal identified in the Pest and Nuisance Control

Regulation (3(1)) under the *Agricultural Pests Act*, including coyotes and skunks.

- s. **“Property”** means land, buildings, structures or premises, or any Personal Property located thereupon within the municipal boundaries of the County.
- t. **“Provincial Offences and Procedures Act”** means the *Provincial Offences and Procedures Act*, RSA 2000, c P34, and regulations thereof, as amended and replaced from time to time.
- u. **“Public Property”** means any land owned by or under control of the County.
- v. **“Reasonable State of Repair”** means buildings and structures that are:
  - i. Structurally sound;
  - ii. Free from damage or deterioration;
  - iii. Safe for its intended use;
  - iv. So as not to present as an Unsightly Premises.
- w. **“Recreational Vehicle”** means a vehicle designed to be transported on its own wheels or by other means (including units mounted permanently or otherwise on trucks), designed, constructed, reconstructed or added to by accessories in such a manner as will permit its use for sleeping or living purposes for one or more persons and used exclusively by tourists or transient(s) on a generally short term basis which would include a travel trailer, tent trailer and/or motor home.
- x. **“Structure”** includes anything, permanent or temporary, constructed or placed on, in, over, or under land.
- y. **“Unsightly Premises”** means any Property or part of it that exhibits visual evidence of a lack of general maintenance to land or Buildings, Personal property or any combination of, which in the opinion of the Designated Officer, is unsightly to such a degree as to be detrimental of the surrounding area or in an unsightly condition as defined in the MGA, and may include the following:
  - i. the storage, stockpile or accumulation of garbage, refuse, discarded furniture, household appliances, scrap metals, tires, power tools, household appliances;
  - ii. any human excrement or sewage;
  - iii. accumulation of Animal Material, Building Material or Yard Material;

- iv. the whole or any part of any vehicle or vehicles including those 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, or any vehicles which are otherwise not in a roadworthy condition;
- v. the failure to cut or control grass and vegetation on the Property, including the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or roadway clearance;
- vi. the failure to keep buildings and structures in a reasonable state of repair, permitting a building or structure to deteriorate, become damaged or exist in a derelict state;
- vii. presence of graffiti that is visible from any surrounding Property;
- viii. allowing conditions that result in an infestation of Pests on the Property;
- ix. allowing a hole, excavation or accumulation of material that may be dangerous to public health or safety, to exist on the Property.
- z. **“Vegetation”** means grass, trees, shrubs, vines, and all other plants.
- aa. **“Weeds”** means noxious weeds as defined by the *Weed Control Act*; and designated in accordance with Weed Control Regulations.
- bb. **“Yard Material”** means organic matter formed because of gardening or horticultural activities, including grass, trees, hedge cuttings.

## **PART TWO   TRANSITION**

- 3. Severability
  - (1) If a portion of this bylaw is found by a court of competent jurisdiction to be invalid, the invalid portion will be voided, and the rest of the bylaw remains valid and effective.
- 4. Effective Date
  - (1) This bylaw comes into effect upon third reading of this bylaw.
- 5. Bylaw Repeal
  - (1) Bylaw No. 1630 is hereby repealed.

## **PART THREE   GENERAL GUIDELINES**

- 6. When deciding as to whether a Property is Unsightly in this Bylaw, the Enforcement Officer and Designated Officer considerations shall include:
  - (1) The normal use and location, as well as the Agricultural Practices or land

- (2) use (permitted agricultural, commercial) of the Property; and
  - (2) The general condition and state of tidiness of the neighboring or surrounding Properties; and
  - (3) The location and permitted use of the Property; and
  - (4) The period of time the Property has been in the state complained of; and the period of time that such activity has been ongoing; and
  - (5) The historical significance; and
  - (6) Any other circumstances or facts relating to the Property that the Court deems are relevant to said determination.
7. Any operation or activity operating under a valid County development approval condition is exempt from this Bylaw.

#### **PART FOUR GENERAL PROHIBITIONS**

8. An Owner shall not cause or allow their Property to be an Unsightly Property, or Dangerous Property.
9. The accumulation of Building Material and equipment on a Property where a valid Permit exists shall not constitute an Unsightly Property so long as:
- (1) The Building Material and equipment is related to the work authorized under the permits; and
  - (2) In the opinion of the Designated Officer, the work is currently in progress, not excessive, and all reasonable steps are minimizing the Unsightly or Dangerous nature of the Property.
10. The accumulation of Animal Material on a Property designated or permitted for use as agricultural lands shall not constitute an Unsightly Property under this Bylaw so as long as, in the opinion of the Designated Officer, the accumulation is not considered excessive given the scope and scale of the activity.

#### **PART FIVE PROPERTY STANDARDS AND MAINTENANCE**

11. Every Owner shall ensure that the Property is maintained in a Reasonable State of Repair, as defined.
12. Every Owner shall take reasonable steps to prevent attracting, sustaining, or the breeding of Pests on their Property.
13. Every Owner shall take reasonable steps to prevent the accumulation of materials that may create unpleasant odours coming from their Property.
14. Every Owner shall ensure:
- (1) Weeds on the Property, and on any boulevard which abuts or adjoins the Property, are eradicated, and controlled.
  - (2) Vegetation and Yard Material on the Property are maintained, removed, and controlled as to not obstruct any person using any publicly owned sidewalk, street or highway, or not to become an unsightly premises, having regard to the height of the grass on surrounding properties.

- (3) Vegetation and Yard Material on the Property are maintained, removed, and controlled as to not allow any infectious disease of trees and other Vegetation located on the Property to spread.

**PART SIX VEHICLE & EQUIPMENT PROHIBITIONS**

15. No Owner of the Property shall allow the exterior storage or parking of a derelict Motor Vehicle more than fourteen (14) consecutive days in residential districts where the land is used primarily for residential purposes, as defined in the LUB.
16. No Owner of the Property shall allow more than one (1) Recreation Vehicle or more than two (2) Motor Vehicles in a residential area where they shall be kept in a manner, in the opinion of the Enforcement Officer, that does not become unsightly or adversely affect the amenities of the area, as defined in the LUB.
17. Notwithstanding the foregoing, the storage of any number of unregistered Motor Vehicles and/or inoperative Motor Vehicles on a parcel which are part of a permitted Agricultural Practice, district, lands, or commercial use as defined by the LUB, are permissible, unless, in the opinion of the Enforcement Officer or Designated Officer, the accumulation on the Property becomes unsightly or adversely affects the amenities of the area.

**PART SEVEN ENFORCEMENT PROCESS**

18. Complaint Process
  - (1) Unsightly premises complaints shall be referred to the Protective Services Department.
  - (2) The complaint shall be reviewed with deemed necessary internal departments, including Planning.
19. Investigation & Determination
  - (1) The Enforcement Officer will conduct an investigation of the condition of the Property and nature of the complaint.
  - (2) A determination is made, as per Part Three of this Bylaw. If the complaint is unfounded, the complainant will be notified.
20. Authority to Enter Lands
  - (1) An Enforcement Officer and/or Designated Officer ensures that the provisions of this Bylaw are being complied with and as such, a Designated Officer may enter in or upon any Property or structure in accordance with Section 542 of the MGA to carry out an inspection, enforcement, remedial action or other action authorized or required by this Bylaw or the MGA.
21. Obstruction of Officers

- (1) No Owner or person shall obstruct, hinder, or impede any Enforcement Officer, Designated Officer, or County employee, contractor or agent in the exercise of any of their powers or duties under this Bylaw or the MGA
- (2) No Owner or person shall make frivolous or vexatious complaints.

## **PART EIGHT ENFORCEMENT**

### **22. Issuance of Notice**

- (1) Where an Owner of a Property is found by an Enforcement Officer to be in non-compliance with any provision of this Bylaw, the Owner of the Property may receive a notice of non-compliance, verbally and/or in writing.

### **23. Warning Letter**

- (1) Where an Owner of a Property has been issued a written notice, and no or little action has been taken, a Warning Letter may be issued or served containing the following:
  - (a) The address and/or legal of the Property where the remedial action is required;
  - (b) The conditions that are not in compliance with this Bylaw;
  - (c) The action required to bring the Property into compliance;
  - (d) A deadline for remedial action to be completed, and reference to next options for enforcement.

### **24. Violations**

- (1) Where an Enforcement Officer has reasonable and probable grounds to believe that the Owner or person has violated any provision of this Bylaw, the Enforcement Officer may:
  - (a) Issue the Owner or person a Municipal Violation Tag based on the Minimum and Specified Penalty established in Schedule A for the offence by including the penalty in the Violation Tag; or
  - (b) Issue the Owner or person a Violation Ticket pursuant to the Provincial Offences Procedures Act; or
  - (c) Require a Court appearance of the Person when the Enforcement Officer believes that it is in the public interest pursuant to the Provincial Offences Procedures Act.
- (2) No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall in any way restrict, limit, prevent or preclude the County from pursuing any other remedy in relation to an offence as may be provided by the MGA or any other law of the Province of Alberta.

### **25. Order**

- (1) Where Designated Officer has reasonable and probable grounds to believe that the Owner or person has violated any provision of this Bylaw, the Designated Officer may serve a Stop Order, Remedial Order or Order to Remedy Dangers under MGA Sections 543-554.
- (2) A Municipal Council may review the Order as per MGA Section 547.
- (3) An Owner or person affected may appeal the reviewed decision of Council through the Court of Kings Bench, as per MGA Section 548.

#### **PART NINE COUNTY COSTS**

26. 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 MGA.
27. If the County sells all or part of any materials or structures that have been removed pursuant to an Order issued under this Bylaw, the proceeds of the sale shall be used to pay the expenses of the enforcement procedure, and costs of the removal of such, and any excess proceeds shall be paid to the Owner of the Property.

#### **PART TEN CAVEAT**

28. The County may register a caveat pursuant to MGA Section 546.1(1) of the MGA in respect of any Order against the Certificate of Title for the Property that is the subject of the Order.
29. If a caveat is registered under this Bylaw, the County shall discharge the caveat when 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.

#### **PART ELEVEN PENALTIES**

30. An Owner or person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000.00 or in default of payment of a fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.
31. The minimum and specified penalty for a violation for any provision of this Bylaw are listed in Schedule A.
32. If an Owner or person violates the same provision of this Bylaw a second time within a 12 month period of the date of the initial Violation Ticket or Violation Tag being issued the minimum specified penalty for the second and addition violations shall be as in Schedule A.



- 33. In the case of an offence that is of continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues and an Owner or person guilty of such an offence is liable to a fine in an amount not less than established by this Bylaw for each such day.

**READ** a first time on this \_\_\_\_ day of June, 2024.

**READ** a second time on this \_\_\_\_ day of June, 2024.

**UNANIMOUS** permission for third reading given in Council on the \_\_\_\_ day of June, 2024.

**READ** a third time and final time of this \_\_\_\_ day of June, 2024.

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Reeve

Kenneth King

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Date Bylaw Signed

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Chief Administrative Officer

Mike Haugen

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Date Bylaw Signed

**SCHEDULE "A"**

**Minimum Penalties and Specified Fines**

**To be compiled for next draft.**