

Subject: **Unsightly Premises Bylaw Draft 2**

Meeting Date: Tuesday, June 18, 2024

Prepared By: Debra Grosfield, CLGM, Protective Services Manager & Barb Hazelton, Planning Manager

Presented By: Debra Grosfield, CLGM, Protective Services Manager & Barb Hazelton, Planning Manager

RECOMMENDATION:

That the Committee of the Whole recommend that Council adopt the updated Unsightly Premises Bylaw.

STRATEGIC PLAN ALIGNMENT: (Check all that apply)

	<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>
High Quality Infrastructure		Economic Resilience		Quality of Life		Effective Leadership		Level of Service	

RELEVANT LEGISLATION:

Council Bylaw/Policy (cite): Attached: Nuisance & Unsightly Bylaw #1630

Provincial (cite)- Municipal Government Act, Section 546

Order to remedy dangers and unsightly property

546(0.1) In this section,

- (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.
- (c) require the owner of the property that is in an unsightly condition to
 - (i) improve the appearance of the property in the manner specified, or
 - (ii) if the property is a structure, remove or demolish the structure and level the site.



BACKGROUND/PROPOSAL:

At the December 5th, 2023 Committee of the Whole meeting, Council requested information regarding our unsightly premises process at Kneehill County, after concerns from ratepayers. Administration presented relevant provincial legislation under the Municipal Government Act on a variety of topics such as municipal inspections and enforcement (Section 542), Order to remedy contraventions (Section 545) and Order to remedy dangers and unsightly property (Section 546). Our current unsightly bylaw was presented, as well as a presentation on the files the Planning Department and the Protective Services Department have completed within the past few years. The presentation also included how Planning and Protective Services work together on many files as some are enforced under the Land Use Bylaw, while others are enforced under other various bylaws. This presentation described what happens with a complaint from initial submission to a consideration of end result. From this meeting, the Committee of the Whole gave direction to Administration to come back to a future COW with recommended changes to our Unsightly Premises Bylaw, with further research comparisons of other bylaws such as Mountain View and Wheatland County's.

At the February 20, 2024 Committee of the Whole meeting, Council reviewed the comparison of our existing Unsightly Premises Bylaw with Mountain View County and Wheatland County's bylaws. The key points discussed included jurisdiction (ours is only in effect for Hamlets), Warning Letters, Accumulating Matter, Dangerous or Unsafe Properties, Vegetation Growth and Derelict Vehicles. Answers were provided for specific questions raised from the December COW, including further details on our level of success in completing the files. Administration provided other tools and proactive approaches to consider in cleaning up properties that aren't "ticket" based, such as community clean ups and surveys. The Committee of the Whole gave direction to Administration to come back to a future COW meeting with a draft bylaw, including further comparisons of other municipal bylaws.

At the May 21, 2024 COW meeting, reviewed a presentation on further comparisons of these bylaws, as requested. Kneehill County, Red Deer County, Mountain View County, Rocky View County, Wheatland County and Lethbridge County's bylaws were the comparator municipalities on topics of Nuisance & Unsightly Definitions, Agriculture Property Enforcement, Derelict Vehicles, Enforcement Tools, and Fines. We also provided the Order Appeal Process (as described in the Municipal Government Act) and our current enforcement process as supplemental information. Clarity on Council's expectations on specific types of files were provided for today's Draft 2 of the bylaw.

At today's meeting, we will review the legal team's comments, the suggested changes from the last COW meeting and clarity on sections of the Draft bylaw.

DISCUSSION/OPTIONS/BENEFITS/DISADVANTAGES/OTHER CONSIDERATIONS:

As requested at the May 21st, 2024 COW meeting, changes were made to the first draft and are reflected in yellow highlighted. Legal comments or suggested wording is stroked out or added in red font.



	Bylaw Changes/Other Questions	Legal Comments
<p>Liability of adding Ag Properties in Bylaw</p>	<p>No changes were made from original draft presented at last COW meeting.</p>	<p>Expanding the scope of the bylaw to include agricultural properties should not open you up to additional liability.</p> <p>It is common to apply to all properties; the issue is when it comes to exercising your discretion, a remote rural property is likely much less offensive than one in the middle of a Hamlet directly adjacent to neighbouring properties.</p> <p>That discretion is clearly built into this Bylaw together with the guidelines in Part 3 that should deal with those standards.</p> <p>Nothing in this bylaw suggests you would go around ticketing any derelict farm buildings, for example.</p>
<p>Garbage blowing from property</p>	<p>Added in Definition of “Unsightly Premises” x(iv): “any loose waste, litter, refuse, garbage, plastics, containers, boxes on or coming from the property”</p>	<p>None</p>
<p>Reasonable State of Repair</p>	<p>Definition and offense have been removed.</p>	
<p>Homestead or Historical Buildings reference</p>	<p>Added to Part Three 6(5) “the historical or community significance” <i>(be considered in deciding if property is unsightly)</i></p> <p>Added in Definition of “Unsightly Premises” x(xi): <i>“presence of broken windows, doors, or other derelict conditions that leave a Structure unsecure or would allow squatting or other unauthorized access to the Structure.”</i></p>	<p>This would allow us to consider the location of the property, along with community significance. If it became a criminal or safety issue, this would have a greater impact on the community and can be dealt with by adding a new bullet to the Unsightly definition.</p>
<p>Frivolous Complaints</p>	<p>Considered adding “the degree of impact to the complainant” in Part 3 Guidelines in considering whether unsightly. Removed due to legal advice.</p>	<p>Adding this will prevent Kneehill County from proceeding with enforcement should there not be “strong feelings” in a complaint. This would preclude us from being able to act, and other factors and the definition already capture these relevant to impact.</p>



Accumulation of Materials	Added Motor Vehicles to Part Four (10).	<p>This may make it more difficult to enforce, however there is discretion by the Designated Officer in the word “excessive”.</p> <p>Part Six already doesn’t apply to agricultural lands.</p> <p>This add would not entirely restrict the County from enforcement in cases where an extreme and unreasonable number of derelict vehicles on the property.</p>
Clarity on Issuance of Orders	Part Eight (24) Added, “An Owner or Person who receives an Order may be written notice request a review of the Order pursuant to Section 547 of the MGA within 14 days after the Order is received.	<p>A Stop Order to be deleted as this refers to a development issued through the Land Use Bylaw.</p> <p>The new wording clarifies which MGA section would be used.</p> <p>The new wording clarifies 14 days (not 7) for Appeals to Remedial or Dangerous Property Orders.</p>
Clarity on Enforcement tools	Part Eight (25) Added, “Notwithstanding sections 21 and 22 of this Bylaw, nothing shall preclude the County from immediately taking action under section 23 or 24 in relation to any violation of this Bylaw”. <i>(This is in relation to Notices and Warning Letters)</i>	<p>To clarify, add provision that you do not have to first issue a notice, then a warning letter, then a violation. This will allow us to skip right to a more severe action if required.</p>
County Costs on Taxes	Part Nine (26) comment from legal	<p>Despite this clause being here, there may be costs incurred by the Municipality, and full recovery is not usually the case.</p>
Hearing Appeals of Orders	Comment from legal	<p>Council is restricted in its ability to delegate powers to hear these requests for review of Remedial or Dangerous Property Orders issued.</p> <p>Council may, through this bylaw, create a Council Committee specific to these, however it must be Council, not the SDAB or another body. However, Council may just hear these and not create another specific committee.</p>
Fines	Schedule A updated	

Our next steps on this Bylaw would be to take the Committee of the Whole’s direction today and update the draft with your suggestions. Dependent on the changes and workload required by staff, timing back to Council will be determined.



FINANCIAL & STAFFING IMPLICATIONS:

Internally, Community Peace Officers and Planning Department continue to work on enforcement files as part of their daily processes and procedures.

Our capacity to enforce files will be dependent on Council's expectations on level of service through this bylaw.

A legal review of the bylaw will be funded through our operating budget.

ATTACHMENTS:

Nuisance & Unsightly Bylaw #1630

DRAFT Unsightly Bylaw #

APPROVAL(S):

Mike Haugen, Chief Administrative Officer

Approved-

