

TOWN OF SUNDRÉ
BYLAW NO. 819
UNSIGHTLY PREMISES AND SNOW REMOVAL BYLAW

Being a bylaw to regulate and abate nuisance and unsightly premises and to require timely snow removal within the Town of Sundre, Alberta.

WHEREAS Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 permits the 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 the Council deems it necessary to provide for an efficient means of regulating and encouraging the abatement of unsightly premises within the Town of Sundre; and

WHEREAS the Council deems it necessary to require the timely removal of ice & snow from the sidewalks located within the Town of Sundre; and

WHEREAS the Council deems it necessary to repeal and replace Bylaw No. 745, the existing "Unsightly Premises Bylaw", and Sections 13.20 and 13.21 of Bylaw No. 789, the present snow-removal provisions of the "Traffic and Pedestrian Bylaw".

NOW, THEREFORE, THE COUNCIL OF THE TOWN OF SUNDRÉ IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

TITLE

1. This Bylaw may be cited as the "Unsightly Premises and Snow Removal Bylaw".

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires:
 - (a) **"Administration Fee"** means a fee added to actual expenses incurred by the Town for measures taken pursuant to Section 17 of this Bylaw and such fee is equal to the greater of \$25.00 or 15 percent of actual expenses incurred by the Town;
 - (b) **"Animal Material"** means any animal excrement and includes all material accumulated on a premises from pet pens or pet yards, stables, veterinary clinics, animal hospitals, kennels or feed lots;
 - (c) **"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;

- (d) **"Building Material"** means material or debris which may result from the construction, renovation or demolition of any building or other structure and includes, but is not limited to, wood, gypsum board, roofing, vinyl siding, metal, packaging material and containers of building material, gravel, concrete and asphalt and any earth, rocks and vegetation displaced during such construction, renovation or demolition of any building or other structure;
- (e) **"Chief Administrative Officer"** means a Municipal official employed by the Town of Sundre in the position Chief Administrative Officer or, in his/her absence, the person appointed as Acting Chief Administrative Officer;
- (f) **"Control"** in reference to weeds means:
 - (i) Cut, mow or carry out measures designed to inhibit propagation of the weed, or
 - (ii) Destroy the weed if specified by a Bylaw Enforcement Officer or Weed Inspector employed by the Town of Sundre, or
 - (iii) Carry out other measures as prescribed by a Bylaw Enforcement Officer or Weed Inspector employed by the Town of Sundre;
- (g) **"Council"** means the Council of the Town of Sundre;
- (h) **"Court"** means the Provincial Court of Alberta;
- (i) **"Enforcement Officer"** means a Bylaw Enforcement Officer or Special Constable employed by the Town, and includes a member of the R.C.M.P. who is authorised to enforce Bylaws of the Town of Sundre;
- (j) **"Garbage"** means any household or commercial rubbish including, but not limited to, boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, discarded clothing or fabric and discarded household items;
- (k) **"Including"** when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- (l) **"Municipal Government Act"** means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended or replaced from time to time;
- (m) **"Owner"** of a property or Premise 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 tax assessment roll of the Town;
 - (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 yet become the registered owner thereof;

- (iv) a Person holding himself out as the person having the powers and authority of ownership of the property or Premise or who for the time being exercises the powers and authority of ownership;
- (v) a Person controlling the property or Premise under construction; or
- (vi) a Person who is the occupant of the property or Premise pursuant to a rental or lease agreement, license or permit;
- (n) **"Notice"** means a notice issued pursuant to this Bylaw to remedy a condition that is not in compliance with any provision of this Bylaw;
- (o) **"Person"** means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- (p) **"Premise"** means any land situated in whole or in part within the Town including the external surfaces of all buildings and land immediately adjacent to any building or buildings and includes any land or buildings owned or leased by the Town;
- (q) **"Provincial Offences Procedure Act"** means the *Provincial Offences Procedure Act*, R.S.A. 2000, Chapter P-34, and the regulations thereof, as amended or replaced from time to time;
- (r) **"Residential building"** means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, hospital, lodging house, hotel, motel, mobile home, tent, trailer, motor home, camper or recreational vehicle of any type;
- (s) **"Residential development"** means any land that is the site of one or more Residential Buildings, excepting farms, ranches, and other land which is used for purely agricultural purposes;
- (t) **"Town"** means the municipal corporation of the Town of Sundre in the Province of Alberta, or the area located within Sundre's corporate limits, as the context requires;

- (u) **“Unsightly premise”** means any property or part of it that exhibits visual evidence of a lack of general maintenance and upkeep, including the excessive accumulation on the premises of:
 - (i) garbage, animal or human excrement, sewage, the whole or a part of an animal carcass, dirt, soil, gravel, rocks, petroleum products, hazardous materials, disassembled equipment or machinery, broken household chattels or goods;
 - (ii) the whole or any part of any vehicle or vehicles 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;
 - (iii) equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances;
 - (iv) animal material, ashes, building material, garbage, and yard material as defined in this Bylaw; or
 - (v) any other form of scrap, litter, trash, or waste of any kind;
- (v) **“Vehicle”** has the same meaning as defined in the Traffic Safety Act;
- (w) **“Yard material”** means waste material of an organic nature formed as a result of gardening, horticultural pursuits, or agricultural activities and includes grass, tree and hedge cuttings, waste sod and decomposing plants, leaves and weeds.

GENERAL PROHIBITION

- 3. No Owner or Owners of a Premise shall cause, allow or permit the Premise to become or to continue to be an Unsightly Premise as defined in this Bylaw.
- 4. (a) Whether or not a particular Premise exhibits visual evidence of a lack of general maintenance, including the excessive accumulation of the materials listed in Section 2(u) of this Bylaw, are questions of fact to be determined by a Court hearing a prosecution, pursuant to the provisions of this Bylaw.
- (b) When making the determination during a trial as to whether a particular Premise constitutes an “Unsightly Premise” the Court’s considerations shall include any admissible evidence as to:
 - (i) the general condition and state of tidiness of the neighbouring or surrounding Premises;
 - (ii) the location and permitted use of the Premise and whether or not the Premise is located within a Residential Development;

- (iii) the period of time the Premise has been in the state complained of;
- (iv) whether or not the Premise is undergoing construction or renovation, and the period of time that such activity has been ongoing; and
- (v) any other circumstances or factors relating to the Premise which the Court deems are relevant to the said determination.

WEEDS, GRASS AND TREES

- 5. An Owner of a Premise is required to control all weeds and grass on the Premise, and on any boulevard which abuts or adjoins the Premise, including up to the center of lanes or alleys at the rear or side of the Premise.
- 6. An Owner of a Premise is required to remove any and all trees that, due to deterioration of condition or for any other reason, are a public safety hazard.

SNOW ON SIDEWALKS

- 7. An Owner of a Premise shall ensure the removal from any improved public sidewalk located adjacent to the Premise, including private driveway crossings, all snow and ice deposited, whether from natural or unnatural means, within 24 hours of deposit.
- 8. For the purpose of Section 7, snow and ice will be considered removed when the sidewalk is cleaned for the entire width of the sidewalk to the sidewalk surface as completely as reasonably possible.
- 9. For the purpose of Section 7, in the case of a sidewalk being below grade resulting in repeated coverage by ice or water through drainage of melted snow or rain, the sidewalk must be cleaned as completely as reasonably possible and a non-slip, non-corrosive and salt-free material such as sand or similar material must be scattered on the surface of the sidewalk as frequently as required to maximize traction for pedestrians.
- 10. For the purpose of Section 7, where an Owner of a Premise reasonably anticipates being absent, the Owner must make arrangements to ensure the sidewalks are maintained in accordance with this Bylaw.

CONSTRUCTION SITES

- 11. An owner of a Premise shall ensure that building material and waste building material on a premise is contained and secured in such a manner that prevents such material from being blown off or scattered from the property.

12. Waste building material shall be removed or secured as quickly as possible by means of appropriate containers.

EXEMPTIONS & EXCEPTIONS

13. The provisions 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 Premise.
14. The Owner of a Premise that carries on, or permits the carrying on of any activities referred to in Section 13 of this Bylaw shall ensure that all reasonable steps are taken to minimise the duration and visual impact of any resulting untidiness or unsightliness of the Premise.
15. Whether or not an Owner has taken “all reasonable steps” to minimise the duration and visual impact of any resulting untidiness or unsightliness of a Premise, as referred to in Section 14 of this Bylaw, is a question of fact to be determined by the Court hearing a prosecution pursuant to the provisions of this Bylaw.

ENFORCEMENT

16. Where a Premise is found to be in non-compliance with any provision of this Bylaw, the Owner of the Premise may be served with a Notice containing the following:
 - (i) The address and/or physical location where remedial action is required;
 - (ii) The condition or conditions that are not in compliance with this Bylaw;
 - (iii) The remedial action that is required; and
 - (iv) The deadline for completion of the remedial action required.
17. Where a Notice regarding the removal of snow or ice from sidewalks is issued and served on the Owner of a Premise and the specified remedial action is not taken by the specified deadline, the Town may take all reasonable measures to remedy in a timely manner any or all conditions specified in the Notice.
18. Any Notice issued pursuant to Section 16 will be deemed to have been sufficiently served upon the Owner of the Premise:
 - (i) When served personally upon the Owner, or served substitutionally upon any person who is 18 years of age or older who resides in the subject Premise, if the Premise is occupied by the Owner;

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- (ii) When served personally upon an occupant of the Premise who is 18 years of age or older or the manager or person apparently in charge of the Premise, if the Premise is not occupied by the Owner;
 - (iii) When posted at a conspicuous location on the Premise;
 - (iv) When given verbally by an Enforcement Officer to the Owner or any occupant of the Premise who is 18 years or older, and where said verbal Notice includes all the information required by Section 16; and
 - (v) When mailed by regular or registered mail to the Owner of the Premise using the address provided by the Owner and on record with the Town of Sundre.
19. Where a Notice has been issued to an Owner pursuant to Section 16 of this Bylaw in relation to Section 7 (snow and ice on sidewalks) of this Bylaw and another similar non-compliant condition occurs within the same winter season, no further Notice is required before action pursuant to Section 17 of this Bylaw may be taken by the Town to remedy the condition
20. Where measures are taken by the Town pursuant to Section 17 of this Bylaw following a failure to comply with a Notice issued in relation Section 7 (snow and ice on sidewalks) of this Bylaw, all Town expenses and costs, including an administration fee, may be added to the tax roll of the subject Premise and recovered by the Town as municipal taxes. ***(Municipal Government Act, Section 553(1)(g.1))***.
21. The Owner of a Premise who has been issued a Notice pursuant to Section 16 of this Bylaw shall fully comply with the Notice within the time allowed for compliance.
22. Where an Enforcement Officer has reasonable grounds to believe that a Person has contravened any provision of this Bylaw, the Enforcement Officer may commence proceedings against such Person by:
- (a) Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act;
 - (b) Swearing out an Information and Complaint against the Person; or
 - (c) In lieu of prosecution, issuing the Person a Bylaw Violation Tag.
23. Where an Enforcement Officer issues a Person a Violation Ticket in accordance with Section 22(a) of this Bylaw, the Officer may either:
- (a) allow the Person to pay the specified penalty as provided for in Sections 27 and 28 of this Bylaw by indicating such specified penalty on the Violation Ticket; or

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- (b) require a Court appearance of the Person where the Enforcement Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act.
- 24. Where a Bylaw Violation Tag issued to a Person is not paid within 14 days of the date of issue, the Enforcement Officer may proceed by way of prosecution in accordance with Section 22(a) or 22(b) of this Bylaw.
- 25. No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a Premises provided by the Municipal Government Act, or any other law of the Province of Alberta.

GENERAL PENALTY PROVISION

- 26. Any 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 or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

MINIMUM AND SPECIFIED PENALTIES

- 27. The specified penalty for a violation of any provision of this Bylaw is a fine in the amount of \$500, and the minimum fine prescribed is \$300.
- 28. Notwithstanding Section 27 of this Bylaw, if a Person violates the same provision of this Bylaw twice within a one-year period, the minimum and specified penalty for the second such violation shall be a fine in the amount of \$1000.
- 29. The penalty in lieu of prosecution for a violation of any provision of this Bylaw proceeded with in accordance with Section 22(c) of this Bylaw is a fine in the amount of \$250.

APPEALS

- 30. A Notice issued in relation to snow and ice on sidewalks (Section 7) may be appealed in writing to the Chief Administrative Officer not later than 48 hours after the date of service of the Notice, except in the case of service by mail in accordance with Section 18(v), in which case the written Appeal must be received within 10 days of the date of mailing of the Notice.
- 31. Where remedial measures are taken pursuant to Section 17 of this bylaw and cost recovery action is commenced by the Town, an appeal as to the amount of the debt only may be made in writing to the Chief Administrative Officer within 10 days of being notified of such recovery action.

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32. A decision on an appeal made pursuant to Section 30 or Section 31 of this Bylaw will be communicated to the appellant verbally or in writing within 7 days of receipt of the appeal.
33. A decision made by the Chief Administrative Officer on an appeal made pursuant to Section 30 or Section 31 may be appealed in writing to the Town Council within 15 days of the date of the decision
34. A decision on an appeal made pursuant to Section 33 will be made by Town Council within 30 days of receipt of the appeal and a decision will be communicated to appellant verbally or in writing within 7 days of the decision.

SEVERABILITY

35. Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

STRICT LIABILITY OFFENCE

36. It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

REPEAL

37. Bylaw No. 745 and Sections 13.20 and 13.21 of Bylaw 789 are repealed on the date that this Bylaw comes into force and effect.

EFFECTIVE DATE

38. This bylaw shall come into force and effect upon it receiving third reading by Council.

Read a first time this 24 day of October, 2005.

Read a second and third and final time this 5 day of December, 2005.

Mayor

Chief Administrative Officer