



**TOWN OF CARDSTON
IN THE PROVINCE OF ALBERTA**

BYLAW 1655

UNSIGHTLY PROPERTY BYLAW

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TOWN OF CARDSTON IN THE PROVINCE OF ALBERTA

BYLAW 1655

UNSIGHTLY PROPERTY BYLAW

A BYLAW OF THE TOWN OF CARDSTON to promote the maintenance of Property and to address the Abatement of Vacant and Unsightly Property within the Town of Cardston.

WHEREAS the *Municipal Government Act*, RSA 2000, c.M-26 and amendments thereto authorizes municipalities to deal with Unsightly Property; and

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 or any other enactment, including any or all of the following:

- 1)** the creation of offences;
- 2)** for each offence, imposing a fine not exceeding \$10,000 or imprisonment for not more than one year, or both;
- 3)** providing for imprisonment for not more than one year for non-payment of a fine or penalty;
- 4)** providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the Person will not be prosecuted for the contravention;
- 5)** providing for inspections to determine if bylaws are being complied with; and
- 6)** remedying contraventions of bylaws;

AND WHEREAS pursuant to section 66(2) of the *Safety Codes Act* a Council may make bylaws respecting the following matters:

- (a)** Minimum maintenance standards for buildings and structures; and
- (b)** Unsightly or derelict buildings or structures; and

WHEREAS pursuant to the *Agricultural Pests Act* and the *Weed Control Act*, a Council may pass certain bylaws and appoint Inspectors;

NOW THEREFORE THE COUNCIL OF THE TOWN OF CARDSTON ENACTS AS FOLLOWS:

PART I - TITLE, PURPOSE, DEFINITIONS AND INTERPRETATION

TITLE

- 1) This Bylaw may be cited as the “**Unsightly Property Bylaw**”.

PURPOSE

- 2) The purpose of this bylaw is to regulate the conduct and activities of people on privately owned property and immediately adjacent areas in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens of the Town.

DEFINITIONS

- 3) In this bylaw:
 - (a) “**Act**” means the *Municipal Government Act*, R.S.A. 2000, c.M-26, or as amended, enacted or modified from time to time.
 - (b) “**Administrator**” means the Chief Administrative Officer of the Town of Cardston or his/her duly authorized assistants.
 - (c) “**Alleyway/Lane**” means an alley intended primarily for access to the rear of Property located adjacent to the alley.
 - (d) “**Boulevard**” means that part of a highway that:
 - i. is between the property line and the curb of the road, normally grassed and/or landscaped;
 - ii. is not a roadway; and
 - iii. is that part of the sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians.
 - (e) “**Bylaw Enforcement Officer**” means a person appointed as a Bylaw Enforcement Officer and includes any Community Peace Officer, Bylaw Enforcement Officer, RCMP Officer or any other Designated Officer or inspector appointed or employed by the Town with respect to the enforcement of Bylaws of the Town of Cardston.
 - (f) “**Council**” means the Municipal Council of the Town.
 - (g) “**Derelict Vehicle**” means
 - i. the presence of damaged, dismantled or derelict vehicle or Motor Vehicle or trailer, whether insured or registered or not, or
 - ii. the external storage of a Motor Vehicle or trailer which does not have subsisting registration and bear valid

license plate or

- iii.** the external storage of any Motor Vehicle or trailer which is inoperable by reason of disrepair, removed parts or missing equipment and which is otherwise not in a roadworthy condition whether or not it has subsisting registration and bears a valid license plate.
- (h)** “**Designated Officer**” means a designated officer in accordance with the Act.
- (i)** “**Direction**” means a written direction in accordance with section 17 of this Bylaw.
- (j)** “**Highway**” the same meaning as in the *Traffic Safety Act*.
- (k)** “**Maintain**” in this bylaw will mean to keep in a clean and tidy condition, ie grass cut, clear of debris, snow or ice, etc.
- (l)** “**Motor Vehicle**” has the same meaning as in the *Traffic Safety Act*.
- (m)** “**Municipal Tag**” means a ticket alleging an offence issued pursuant to the authority of a bylaw of the Town.
- (n)** “**Non-Residential Property**” means all Property that is not Residential Property.
- (o)** “**Occupy**” or “**Occupies**” means residing on or to be in apparent possession or control of Property.
- (p)** “**Order**” means a written order in accordance with subsection 546(1)(c) of the current Act (and as amended).
- (q)** “**Owner**” or “**own**” or “**owns**” means:
 - i.** in respect of land, the person who is registered under the *Land Titles Act* as the owner of the fee simple estate in the land, and
 - ii.** in respect of Property other than land, the person in lawful possession of it.
- (r)** “**Person**” means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative.
- (s)** “**Property**” means:
 - i.** a parcel of land,
 - ii.** a Structure, or
 - iii.** a parcel of land and any Structures located thereon.
- (t)** “**Residential Property**” means any Property that is

solely used for residential purposes, and includes a residential dwelling that contains a home occupation business and a residential dwelling that is under construction.

- (u)** “**Sidewalk**” means that part of the Highway especially adapted to the use of or ordinarily used by pedestrians and includes that part of a Highway between the curb line or, where there is no curb line, the edge of the roadway, and the adjacent property line whether or not it is paved or unpaved.
- (v)** “**Structure**” means a building or other thing and any part of a building or structure erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land.
- (w)** “**Town**” means the Town of Cardston.
- (x)** “**Unightly Property**” means Property described in section 6 of this Bylaw.
- (y)** “**Violation Ticket**” has the same meaning as in the *Provincial Offences Procedure Act*.

RULES FOR INTERPRETATION

- 4)** The following shall be considered in interpreting this Bylaw:
 - (a)** The Owner of any real property, as registered on title at the Land Titles Office is ultimately responsible for all activities on the Property which may constitute prohibitions of this Bylaw.
 - (b)** Nothing in this Bylaw relieves a Person from complying with any Federal or Provincial law or regulation, other bylaw or any requirements of any lawful permit, order or license.
 - (c)** Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefore.
 - (d)** A Person who owns or Occupies land shall be considered to Occupy that portion of any Highway between the property line and the curb of the Highway.
 - (e)** Every provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.
 - (f)** All references in this Bylaw will be read with such changes

in number and gender as may be appropriate according to whether the reference is to a male or female Person, or a corporation or partnership;

- (g) All schedules attached to this Bylaw shall form part of this Bylaw.

PART II – UNSIGHTLY PROPERTY AND MAINTENANCE OF SIDEWALKS, BOULEVARDS, BUILDINGS, AND UNOCCUPIED BUILDINGS

UNSIGHTLY PROPERTY

- 5) A Person shall not cause or permit a nuisance or Unightly Property to exist on land they own or Occupy.
- 6)
- (a) For the purpose of greater certainty a nuisance or Unightly Property is Property that, in the opinion of a Bylaw Enforcement Officer, is detrimental to the surrounding area because of its unsightly condition.
- (b) Some factors which may be considered by a Bylaw Enforcement Officer in determining whether Property is Unightly Property or nuisance include the following:
- i. the presence of uncut grass or weeds higher than 15 centimetres;
 - ii. smelly or messy compost heaps;
 - iii. production of excessive dust, dirt or smoke;
 - iv. production of any generally offensive odours;
 - v. the presence of trees, shrubs or other vegetation in such a manner that they interfere with the use of or obstruct visibility of street signage, sidewalks, roadway clearance, municipal works or public utilities;
 - vi. The storage, presence or accumulation of a Derelict Vehicle or the storage of Derelict Vehicle/s on any Non-Residential Property or Residential Property except vehicles that are stored in an approved accessory Structure;
 - vii. the storage or accumulation of garbage, litter, refuse (including but not limited to building materials, tires, boxes, scrap material), equipment, dilapidated furniture or appliances, machinery, machinery parts or other similar materials or items;

- viii.** the unorganized storing or keeping of refuse, building materials, or metals including machinery and auto and truck and other types of vehicle, parts, or any other contraption;
- ix.** specific or general lack of repair or maintenance including but not limited to:
 - (1)** significant deterioration of Structures or portions of Structures;
 - (2)** broken or missing windows, siding, shingles, shutters, eaves or other building materials;
 - (3)** significant fading, chipping or peeling of painted areas of Structures;
 - (4)** exterior doors or windows in a Structure that do not operate as they were intended to or do not fit tightly within their frames when closed;
 - (5)** exterior doors, windows or openings in a Structure that are not properly constructed or maintained so as to completely exclude rain;
 - (6)** exterior doors, windows or other openings in a Structure that are covered with wood where the wood is not:
 - (a)** installed and fitted within the frame of the opening in a watertight manner;
 - (b)** of a thickness sufficient to prevent unauthorized entry to the Structure;
 - (c)** secured in a manner sufficient to prevent unauthorized entry to the Structure; or
 - (d)** coated with a protective finish that is similar in colour to the colour of the Structure;
- x.** the location, zoning, use and visibility of Property;
- xi.** any accessible excavation, ditch, drain or standing water that could pose a danger to the public;
- xii.** any construction project or activity not completed within five years of the date the building permit for the project or activity was issued by the Town or, if no permit was issued or required, within three years of starting construction;
- xiii.** in a Residential Property, the condition of permitting the storing of goods and equipment or materials, used in

connection with a hobby or business that is not a home occupation business duly licensed and is not pleasing to the sight;

- xiv.** in a Residential Property, the condition of permitting a Derelict Vehicle or parts thereof which are in an unsafe or unsightly condition to remain outside a Structure or on Property located within the boundaries incapable of movement under its own power;
- xv.** the accumulation of dirt, soil, gravel, rocks, disassembled equipment or machinery, broken household chattels or goods;
- xvi.** open or exposed storage of any industrial fluid, including engine oil, brake fluid, battery fluid, or antifreeze; or
- xvii.** any other form of scrap, litter, trash, junk or waste of any kind.

(c) Subsection (2) is not intended to be an exhaustive list of factors which may be considered in determining whether Property is Unsightly Property.

SIDEWALKS

7) A Person shall maintain any Sidewalk adjacent to Property they own or Occupy and clear of all snow and ice.

BOULEVARDS

8) A Person shall maintain any Boulevard adjacent to land they own or Occupy by:

- (a)** keeping any grass on the Boulevard cut to a reasonable length; and
- (b)** removing any accumulation of fallen leaves or other debris.

ALLEYWAY / LANES

9) A Person shall maintain any Alleyway/Lane adjacent to Property they own or Occupy by:

- (a)** keeping any grass on the Alleyway/Lane cut to a reasonable length; and
- (b)** removing any accumulation of fallen leaves or other debris.

STRUCTURES

10) A Person shall not cause or permit a nuisance to exist in respect of any Structure on Property they own or Occupy.

11) For the purpose of greater certainty, a nuisance, in respect of a Structure, means a Structure showing signs of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area; some examples of which include:



- (a) any damage to the Structure;
- (b) any graffiti displayed on the Structure that is visible from any surrounding Property;
- (c) any rot or other deterioration within the Structure; and
- (d) any inappropriate infiltration of air, moisture or water into the Structure due to peeling, unpainted or untreated surfaces, missing shingles or other roofing materials, broken or missing windows or doors, or any other hole or opening in the Structure.

UNOCCUPIED STRUCTURES

12) If a Structure normally intended for human habitation is unoccupied, then any door or window opening in the Structure may be covered with a solid piece of wood but only if the wood is:

- (a) Installed and fitted within the frame of the opening in a watertight manner;
- (b) of a thickness sufficient to prevent unauthorized entry into the Structure;
- (c) secured in a manner sufficient to prevent unauthorized entry into the Structure; and
- (d) coated with protective finish in a manner that is not detrimental to the surrounding area.

13) The Owner of a vacant/unoccupied Structure or Property must maintain it in compliance with the standards set out in this Bylaw, including, but not limited to:

- (a) If a Structure or Property normally intended for human habitation is unoccupied then every public sidewalk adjacent to the Property shall be maintained clear of all snow and ice by the Person who owns the Property or their contractor/property manager;
- (b) The Owner of any Structure or Property that is vacant for more than sixty (60) days must register such Property with the Town of Cardston with a contact name, address and information and/or property manager/contractor;
- (c) The Owner of any Structure or Property that is vacant must remove all signage from the Structure or Property that would indicate that a business may in fact be in operation;
- (d) The Owner of a vacant Property must ensure that the Structure is secure from unauthorized entry.
- (e) Vacant Structures that have not been occupied for a year or

more may be inspected inside and out, by a town appointed official, to verify safety and fire codes;

(f) The Owner of a vacant Structure who desires to demolish the vacant Structure must first acquire a demolition permit from the Town of Cardston.

14) A Person shall not obstruct or hinder any Bylaw Enforcement Officer (or Administrator) or person assisting a Bylaw Enforcement Officer (or Administrator) in the exercise or performance of the Bylaw Enforcement Officer (or Administrator) powers pursuant to this Bylaw.

PART III – ENFORCEMENT

VICARIOUS LIABILITY

15) For the purposes of this bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred in the course of the employee's employment with the Person, or in the course of the agent's exercising the powers or performing the duties on behalf of the Person under their agency relationship.

CORPORATION

16) When a corporation commits an offence under this bylaw, every principal, director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.

PARTNERSHIPS

17) If a partner in a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

NOTICE

18) Any Direction or Order given pursuant to this Bylaw shall be deemed to have been duly given and served on the Owner as shown on the assessment roll:

(a) on it being personally delivered to the Owner;

(b) on leaving it with a person deemed by the Bylaw Enforcement Officer to be over the age of sixteen (16) years at the residence of the person to whom the notice is addressed; or

- (c) by posting it in a conspicuous place on the Property or a Structure on the Property, and in such case, by also sending it by registered mail to the Owner as shown on the assessment roll.

DIRECTION

- 19)** If a Bylaw Enforcement Officer forms the opinion that the Property is Unsightly Property or nuisance, the Bylaw Enforcement Officer may issue a written Direction to the Owner or occupier of the Property. The Direction may require the Owner or occupier of the Unsightly Property to improve the appearance of the Property in the manner specified and may state a time within which the Person must comply with the Direction.

ORDERS

- 20)** If, in the opinion of the Bylaw Enforcement Officer, Property is detrimental to the surrounding area because of its unsightly condition, the Bylaw Enforcement Officer may issue a written Order in accordance with subsection 546(1)(c) of the current Act (or as amended).

TOWN MAY REMEDY UNSIGHTLY CONDITION OF PROPERTY

- 21)** If an Order has been issued, the Town may take whatever actions or measures are necessary to:
- (a) deal with the unsightly condition of Property in accordance with section 550 of the Act and cause any work necessary to remedy the condition to be done;
 - (b) collect any unpaid costs or expenses incurred by the Town in accordance with the Act, including but not limited to:
 - i. (i) recover the cost of the debt due to the Town in a court of competent jurisdiction by way of a civil action; and/or
 - ii. (ii) charge the cost against the Property as taxes due and owing in respect to that Property by adding all costs to the tax roll of the premises;
 - (c) the costs and expenses of the actions or measures taken by the Town are charged in addition to any penalty imposed under this Bylaw.

REVIEW OF ORDERS

- 22)** Council may review Orders under section 547 of the current Act (or as amended).
- 23)** A Person who receives an Order may request the Council review the Order by written notice delivered to the following address:

The Town Clerk

Office of the Town
Box 280
67 – 3 Avenue West
Cardston, AB T0K 0K0

within 7 days of the date the Order is received.

DECISION OF COUNCIL

24) After reviewing the Order, Council may confirm, vary, substitute or cancel the Order in accordance with subsection 547(2) of the current Act (or as amended).

APPEAL TO COURT

25) A Person affected by the decision of the Council under section 10 may appeal to the Court of Queen’s Bench in accordance with section 548 of the current Act (or as amended).

INSPECTION

26) A Bylaw Enforcement Officer may inspect Property in accordance with section 542 of the current Act (or as amended) for the purposes of determining whether:

- (a)** Property is Unsightly Property under this Bylaw;
- (b)** Property, because of its unsightly condition is detrimental to the surrounding area in accordance with section 546 of the current Act (or as amended);
- (c)** there has been compliance with a Direction issued under section 5 of this Bylaw; or
- (d)** there has been compliance with an Order issued in accordance with subsection 546(1)(c) of the current Act (or as the Act is amended from time).

OFFENCE

27) A Person who fails to comply with:

- (a)** a Direction issued in accordance with section 17;
- (b)** an Order issued in accordance with subsection 546(1)(c) of the current Act (or as amended), within the time specified therein; or
- (c)** any other section of this Bylaw;

is guilty of an offence.

28) Each day, or part of a day, that an offence under this Bylaw continues constitutes a separate offence.

PENALTY

29) A Municipal tag or ticket in the amount of the voluntary penalty may be issued for any breach of this Bylaw. In the event a municipal tag remains unpaid after the period of thirty (30) days a summons will be issued.

30) If a Bylaw Enforcement Officer believes on reasonable and probable grounds that an offence has been committed under a section of this Bylaw, a summons under the *Provincial Offences Procedures Act*, RSA 2000, Chapter P-34 may be issued by means of a Violation Ticket in respect of an alleged contravention, and the penalty payable upon conviction in a court of competent jurisdiction shall be as specified in appendix “A” of this bylaw.

And in default of payment of any penalty, to imprisonment for up to 6 months.

31) If a violation ticket is issued in respect of an offence, the violation ticket may:

- (a)** Specify the fine amount established by this Bylaw for the offence; or
- (b)** Require a person to appear in Court without the alternative of making a voluntary payment.

32) A person who commits an offence may:

- (a)** If a violation ticket is issued in respect of the offence; and
- (b)** If the violation ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment equal to the specified fine by delivering the violation ticket and the specified fine to the Provincial Court Office specified on the violation ticket.

POWERS OF ADMINISTRATOR

33) Without restricting any other power, duty or function granted by this Bylaw the Administrator may:

- (a)** carry out any inspections to determine compliance with this Bylaw;
- (b)** take any steps or carry out any actions required to enforce this Bylaw;
- (c)** take any steps or carry out any actions required to remedy a contravention of this Bylaw;
- (d)** establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of Property and such procedures may differ depending on the type of Property in question;
- (e)** establish areas where activities restricted by this Bylaw are permitted;
- (f)** establish forms for the purposes of this Bylaw;

- (g) issue permits with such terms and conditions as are deemed appropriate;
- (h) establish the criteria to be met for a permit pursuant to this Bylaw;
- (i) delegate any powers, duties or functions under this Bylaw to an employee of the City; and
- (j) appoint inspectors for the purposes of the *Agricultural Pest Act* and the *Weed Control Act*.

PERMITS

- 34) A Person to whom a permit has been issued pursuant to this Bylaw, and any Person carrying out an activity otherwise regulated, restricted or prohibited by this bylaw pursuant to such permit, shall comply with any terms or conditions forming part of the permit.
- 35) A Person shall not make any false or misleading statement or provide any false or misleading information to obtain a permit pursuant to this Bylaw.
- 36) If any term or condition of a permit issued pursuant to this Bylaw is contravened or if a false or misleading statement or false or misleading information was provided to obtain the permit, the Administrator may immediately cancel the permit.
- 37) The onus of proving a permit has been issued in relation to any activity otherwise regulated, restricted or prohibited by this Bylaw is on the Person alleging the existence of such a permit on a balance of probabilities.

ENFORCEMENT OF THIS BYLAW

- 38) The Town is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the Town may take into account any practical concerns, including available municipal budget and personnel resources.

PART IV – COMING INTO FORCE AND REPEAL

EFFECTIVE DATE

- 39) This Bylaw shall come in force upon the date of its third and final reading.

REPEAL

- 40) Bylaw 1597 and all prior unsightly property bylaws in the Town of Cardston and amendments thereto shall be rescinded.



Received First Reading this 10th day of January, 2017.

Received Second Reading this 14th day of February, 2017

Received Third & Final Reading this 14th day of February, 2017

Signed by the Mayor and the Chief Administrative Officer this 22nd day of February, 2017

TOWN OF CARDSTON

MAYOR MAGGIE KRONEN

CHIEF ADMINISTRATIVE OFFICER
JEFF SHAW

APPENDIX “A”

FINE SCHEDULE FOR VIOLATION OF UNSIGHTLY PROPERTY BYLAW

- 1) In the case of a Residential Property:
 - (a) a fine of not less than \$350.00 for a first offence by that Person; and
 - (b) a fine of not less than \$700.00 for any subsequent offence by that Person; or

- 2) In the case of a Non-Residential Property:
 - (a) a fine of not less than \$700.00 for a first offence by that Person; and
 - (b) a fine of not less than \$1,400.00 for any subsequent offence by that Person.

