



THE MUNICIPAL DISTRICT OF OPPORTUNITY NO.17, ALBERTA

BYLAW 2016-02

UNSIGHTLY PROPERTY AND NUISANCE

A Bylaw of the Municipal District of Opportunity No.17, in the Province of Alberta to regulate, prohibit, and abate unsightly property and nuisances.

WHEREAS Section 7 of the Municipal Government Act, RSA 2000, Chapter M-26, as amended allows a Council to pass a bylaw respecting the safety, health and welfare of people and the protection of people and property; and nuisances, including unsightly property;

AND WHEREAS Council deems it necessary to provide an efficient and effective means of regulating and abating unsightly property and nuisances within the Municipal District of Opportunity No. 17;

NOW THEREFORE PURSUANT to the provisions of the Municipal Government Act, Chapter M26, the Council of the Municipal District of Opportunity No.17 in regular session duly assembled, enacts as follows:

SHORT TITLE

1. This Bylaw may be cited as the "Unsightly Property Bylaw".

DEFINITIONS

2. The following words shall be defined terms for the purpose of this Bylaw:
 - a) "Council" means the Council of the Municipal District of Opportunity No. 17;
 - b) "CAO" means the Chief Administrative Officer of the Municipal District of Opportunity No. 17;
 - c) Opportunity No. 17;
 - d) "Derelict Equipment" means any equipment or machinery which is inoperative due to disassembly, age or mechanical condition and includes household appliances stored outside of a structure.
 - e) "Derelict Vehicle" means the whole or any part of any motor vehicle, boat or trailer that is wrecked, partly wrecked, partly or fully dismantled, or inoperative and which is not concealed within a permanent structure.
 - f) "Filth or Noxious Materials" means any decomposing matter; any matter serving as a vector for vermin; and any other noxious, offensive, or unsanitary matter.
 - g) "Graffiti" means words, figures, letters, graphics and drawings scribbled, scratched or sprayed on the surface of anything located on a property including structures, fences, walls and stored items such as vehicles, equipment, and machinery, whether with the consent of the owner or occupier of the property or not.

- h) "MD" means the Municipal District of Opportunity No. 17.
- i) "MGA" means the *Municipal Government Act*, RSA 2000, c M-26 as amended or repealed and replaced from time to time, and any regulations made under that Act.
- j) "Municipal Tag" means a tag or similar document issued by the MD pursuant to the *Municipal Government Act* for the purpose of notifying a person that an offence has been committed for which a prosecution may follow.
- k) "Nuisance" means any condition on, use of, or emission from a property which, in the opinion of an Officer acting reasonably, is offensive or poses a danger to public health or safety and includes accumulations of combustibles, offensive odours, excessive dust or smoke, or accessible holes, excavations, or stagnant water.
- l) "Occupier" means any person in lawful possession of a property, including a lessee, tenant, or agent of the owner, whether an individual or corporate entity.
- m) "Officer" means a designated officer as defined in the MGA, a Bylaw Enforcement Officer of the MD, and any member of the Royal Canadian Mounted Police.
- n) "Order" means a written document issued by an Officer specifying acts required of an owner, occupier or person in relation to this bylaw.
- o) "Owner" means any person named as the owner of real property on its land title, and includes officers of corporations or other organizations so named.
- p) "Person" means any individual, firm, partnership, corporation, association, trustee, executor, administrator, or other legal representative.
- q) "Property" means any parcel of land including any structures.
- r) "Provincial Offences Procedure Act" means the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time.
- s) "Rubbish" means any and all manner of scattered or piled garbage, solid or liquid waste, scrap materials, detached mechanical parts, household items unprotected from weather; and any other form of rubbish.
- t) "Structure" means a building or improvement erected or placed on, over or under property.
- u) "Violation Ticket" means a violation ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*.
- v) "Weeds" means noxious and prohibited noxious weeds defined in the *Weed Control Act* and *Weed Control Regulation* of Alberta as amended or repealed and replaced from time to time; and any plant designated as a weed in the *Weed Control Bylaw* of the MD as amended or repealed and replaced from time to time.

UNSIGHTLY PROPERTY

3. A property is unsightly if:
 - a) It has on it any derelict equipment, derelict vehicles, filth or noxious materials, graffiti, rubbish, or weeds;
 - b) It has on it, or is the source of, any nuisance; or
 - c) If its land or structures show, in the opinion of an Officer, signs of significant physical deterioration or a serious disregard for maintenance or upkeep; whether or not the property is detrimental to the surrounding area.

4. No owner, occupier, or other person shall cause or permit a property to be or to remain unsightly.

INSPECTION

5. An officer may, after giving reasonable notice to the owner or occupier of a property, enter onto that property and into any structure on that property including a dwelling, at any reasonable time in order to inspect, enforce, or take other action or measures required or authorized by this bylaw.
6. No person may hinder or obstruct an officer conducting an inspection pursuant to section 5.
7. In an emergency or other extraordinary circumstances, an officer may enter without giving reasonable notice and also may without notice do any action required or authorized by this bylaw.
8. An officer may request an owner or occupier produce anything to assist in the inspection, remedy, enforcement or other action, and further, may make copies of those things produced.
9. An officer, when entering onto or into any property, will do so in accordance with MD policy and display or produce identification showing that he or she is a person authorized to make the entry.

ORDER AND APPEAL

10. Where a contravention of this bylaw has occurred or is occurring, an Officer may issue an Order to the Owner, Occupant, or person responsible for the contravention, or any or all of them, in accordance with the MGA, in a form approved by the CAO.
11. An order issued under this bylaw may be served:
 - a) in the case of an individual,
 - i. personally to the individual;
 - ii. by registered mail to the individual at their apparent place of residence
 - iii. or at any address for the individual on the tax roll of the MD or at the Land Titles registry; or
 - iiii. by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age.
 - b) in the case of a corporate entity,
 - i. personally to any director or officer of the corporate entity;
 - ii. personally to a person apparently in charge of an office of the corporate entity at an address held out by the corporate entity to be its address; or
 - iii. by registered mail addressed to the registered office of the corporate entity.
12. Notwithstanding section 11, a copy of the order may be posted in a conspicuous place on the property referred to in the order, if service cannot otherwise reasonably be effected.
13. A person to whom an order is issued pursuant to section 10 may request a review of the order by written notice to Council and payment of the required fee within fourteen (14) days of the day on which the order is served.

REMEDY

14. If an order issued under this bylaw is not complied with upon expiration of the appeal periods the MD may take whatever actions or measures necessary to remedy the bylaw contravention or to prevent a re-occurrence of the contravention.
15. If the order directed that a structure be put and maintained into a sanitary, repaired, or safe condition, the MD in taking actions or measure to remedy the contravention may use reasonable force to remove occupants and or close the structure in order to effect the requirement.
16. If the MD sells all or part of a structure or any other thing from a property, the proceeds of the sale will first be used to pay the expenses and costs of the remedy and any excess proceeds will be paid to the person entitled to them.
17. The expenses and costs of an action or measure taken by the MD to remedy a contravention of this bylaw are an amount owing to the MD and may be recovered in accordance with the MGA.

OFFENCE AND FINE

18. Any person who contravenes any provision of this bylaw is guilty of an offence.
19. A person who is guilty of an offence is liable to a fine in an amount not less than that established in Schedule "A" and not exceeding \$10,000.00.
20. Each day an offence continues constitutes a separate offence occurrence.
21. An Officer is hereby authorized and empowered to issue a Municipal Tag to any person whom the Officer has reasonable grounds to believe has contravened any provision of this bylaw.
22. The Municipal Tag shall be served in a manner set out in section 11 and section 12 of this bylaw.
23. The Municipal Tag shall be in a form approved by the CAO and shall state:
 - a) the name of the person to whom the Municipal Tag is issued;
 - b) a description of the property upon which the offence has been committed, if applicable;
 - c) the penalty imposed for the offence as specified in Schedule "A" of this bylaw;
 - d) that the penalty shall be paid within fourteen (14) days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - e) any other information as may be required by the CAO.
24. Where a Municipal Tag has been issued pursuant to this bylaw, the person to whom the Municipal Tag has been issued may, in lieu of being prosecuted for the offence, pay to the MD the monetary penalty specified on the Municipal Tag.
25. Where a contravention of this bylaw is of a continuing nature, further Municipal Tags may be issued by an Officer, provided that no more than one (1) Municipal Tag shall be issued for each day that a contravention continues.
26. If a Municipal Tag has been issued and the penalty not paid within the prescribed time, an Officer may issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act* to the person to whom the Municipal Tag was issued.

27. Nothing in this bylaw shall prevent an Officer from immediately issuing a Violation Ticket to any person whom the Officer has reasonable grounds to believe has contravened any provision of this bylaw.
28. A Violation Ticket issued in respect of a contravention of this bylaw shall be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
29. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
 - a) specify a fine established by this bylaw for the offence in Schedule "A" for voluntary payment; or
 - b) require a person to appear in court without the alternative of making voluntary payment of the fine.
30. A person to whom a Violation Ticket is issued may, if the Violation Ticket provides for voluntary payment of a fine established by the bylaw, pay the fine amount specified to a Clerk of the Provincial Court on or before the initial appearance date indicated on the Violation Ticket.
32. When a Clerk of the Provincial Court records receipt of a voluntary payment of a fine set out in a Violation Ticket, the act of recording receipt of that payment constitutes a guilty plea to the charge and also constitutes a conviction and the imposition of a penalty following the conviction.

ADMINISTRATION AND SEVERABILITY

33. If any provision of this bylaw is declared invalid because of any word, phrase, clause, sentence, paragraph or section, or because of any schedules which form part of this bylaw, or if an application of any part of this bylaw to any person or circumstance is declared invalid, the remaining provisions shall not be affected thereby but shall remain in force.
34. Where any conflict arises between the requirements of this bylaw and those of any other bylaw of the MD, the more stringent requirements shall apply.
35. *Bylaw 2011-19 Unsightly Premises and Nuisance Abatement* is hereby repealed in its entirety.


EFFECTIVE DATE

36. This bylaw shall come into effect on the date of third and final reading.

READ A FIRST TIME this 10th day of February, 2016

READ A SECOND TIME this 10th day of February, 2016

READ A THIRD AND FINAL TIME this 10th day of February, 2016



 Paul Sinclair, Reeve



 Helen Alook, Chief Administrative Officer

SCHEDULE A

PENALTIES

Section	Provision	First Offence	Second Offence	Third & Subsequent Offence
4	Cause or Permit an Unsightly Property	\$100.00	\$200.00	\$300.00
6	Obstruct Officer	\$100.00	\$200.00	\$300.00