

BYLAW NO. 2191

Unsightly Premises

Being a Bylaw to control nuisances, weeds and unsightly premises within the Hamlets, Municipally Controlled areas or Multi-lot Country residential areas.

WHEREAS: Pursuant to the provisions of the Municipal Government Act, Statutes of Alberta, RSA 2000 and amendments thereto, Council may pass a Bylaw for the purpose of controlling weeds, and unsightly premises and nuisances within the M.D. of Provost.;

AND WHEREAS: Council deems it necessary to pass a Bylaw to control nuisances, weeds and unsightly premises within the M. D. of Provost.

NOW, THEREFORE THE MUNICIPAL COUNCIL OF THE M.D. OF PROVOST, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. TITLE

This Bylaw may be cited as the "Nuisance and Unsightly Premises Bylaw".

2. DEFINITIONS

2.1 In this bylaw, unless the context otherwise requires:

- a. "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;
- b. "Carry On" means to carry on, continue, operate, perform, keep, hold, occupy, or use a thing, object or practice;
- c. "Chief Administrative Officer" means a Municipal official in the responsible role of Chief Administrative Officer, and includes anyone designated and authorized to act on his behalf;
- d. "Peace Officer" means a person so designated, and includes any inspector designated by Council or the Chief Administrative Officer, to

- perform the duties of the Peace Officer with respect to the enforcement of this Bylaw;
- e. "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 Peace Officer or Weed Inspector employed by the M.D. of Provost, or
 - iii. Carry out other measures as prescribed by a Peace Officer or Weed Inspector employed by the M.D. of Provost;
 - f. "Council" means the Council of the Municipal District of Provost;
 - g. "Court" means the Provincial Court of Alberta;
 - h. "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;
 - i. "Highway" is as defined in the Traffic Safety Act;
 - j. "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;
 - k. "Notice" means a notice issued pursuant to this Bylaw to remedy a condition that is not in compliance with any provision of this Bylaw;
 - l. "Owner" means:
 - i. a person who is registered under the Land Titles Act as the owner of a parcel of land, or
 - ii. a person who is recorded as the owner of a property on the tax assessment roll of the Municipal District, or
 - iii. a person who has purchased or otherwise acquired a parcel of 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; or
 - iv. a person holding himself out as the person having the powers and authority of ownership of a property or premises or who for the time being exercises the power and authority of ownerships; or
 - v. a person controlling a property or premises under construction, or
 - vi. a person who is the occupant of a property or premises pursuant to a rental or lease agreement, license or permit;
 - m. "Person" means an individual or any business entity including a firm, partnership, association, corporation, company or society;
 - n. "Premises" means any land situated in whole or in part within the Municipal District 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 Municipal District of Provost;

- o. "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;
- p. "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;
- q. "Residential Development" means any land that is the site of one or more residential buildings, including farms, ranches, and other land that is used for purely agriculture purposes;
- r. "M.D." means the Municipal District of Provost No. 52, a municipal corporation in the Province of Alberta, and where the context so requires means the area of land within the corporate boundaries thereof;
- s. "Unightly Premises" means any property or part of it which is characterized by visual evidence of a lack of general maintenance and upkeep by the excessive accumulation on the premises of:
 - i. garbage, animal or human excrement, sewage, the whole or part of an animal carcass, dirt, soil, gravel, rocks, petroleum products, hazardous materials, disassembled equipment or machinery, broken household chattels or goods, or
 - ii. the whole or any part of a vehicle or vehicles which are not registered with the Motor Vehicle Registry for the current year and are inoperative by reason of disrepair, removed parts or missing equipment, or
 - iii. equipment or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition, including household appliances, or
 - iv. animal material, ashes, building material, garbage and yard material as defined in this Bylaw, or
 - v. any other form or scrap, litter, trash or waste of any kind;
- t. "Vehicle" has the same meaning as defined in the Traffic Safety Act;
- u. "Yard Material" means waste material or 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.

3. GENERAL PROHIBITION

3.1 No owner of a property or premises shall cause, allow or permit the premises to become or to continue to be an unsightly premise as defined in this Bylaw.

3.2 Whether or not a particular premises is "characterized by visual evidence of a lack of general maintenance" as a result of the "excessive accumulation" of the materials listed in section 2(s) of this Bylaw are questions of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this Bylaw.

3.3 When making the determination during a trial as to whether a particular premise constitutes an "unsightly premises" the Court's considerations shall include any admissible evidence as to:

- a. The general condition and state of tidiness of the neighboring or surrounding premises; and
- b. The location and permitted use of the premises and whether or not the premises is located within a Residential Development; and
- c. The period of time the premises has been in the state complained of; and
- d. Whether or not the premises is undergoing construction or renovation, and the period of time that such activity has been ongoing; and
- e. Any other circumstances or factors relating to the premises which the Court deems are relevant to the said determination.

4. WEEDS, GRASS, TREES AND PESTS

4.1 Every occupant or owner of any property or premises within the M.D. shall:

- a. Eradicate or control all weeds and grass on a premises, and on any boulevard which abuts or adjoins the premises, including up to the center lanes or alleys at the rear or side of the premises;
- b. Prune or remove any and all trees that, due to a deterioration of condition or for any other reason, interfere with any public utility or public works, and are a public safety hazard;
- c. Remove or prune any shrub owned by him which is, or could be, a nuisance to any person using any publicly owned or maintained sidewalk or street;
- d. Prevent stagnant water from remaining on any such premises and becoming a breeding place for mosquitoes or other pests;
- e. Cut or mow the grass on any boulevard or street, situated on M.D. owned land adjoining, or abutting or adjacent to premises owned or occupied by him, to prevent such grass from growing to such a height as to be unsightly, having regard to the height of the grass on adjacent or surrounding premises;

- f. Remove from such property any dead grass or brush or rubbish which may be untidy or unsightly, or may harbor vermin or pests thereon;
- g. Cut the grass on such property before said grass reaches such a height as to be unsightly, having regard to the height of the grass on adjacent or surrounding property.

4.2 No occupant or owner of any property or premises shall:

- a. Allow dandelions or noxious weeds (as defined in the Noxious Weed Act) to grow on occupied or unoccupied premises;
- b. Suffer or permit trees growing on private property to interfere or endanger the lines, poles, conduits, pipes, sewers, or other works of the M.D.;
- c. Allow blight or disease of the trees or shrubs or vegetable or plant life liable to spread to other trees or shrubs or plant life within the M.D. to go unchecked;

5. CONSTRUCTION SITES

5.1 An owner of a property or premises under construction shall ensure that building materials and waste materials on the premises are removed or contained and secured in such a manner that prevents such material from being blown off or scattered from the property.

5.2 An owner of a property or premises under construction shall ensure that waste building material on the premises is removed or secured within a reasonable time by means of appropriate containers.

5.3 All existing gas, electrical, water, sewer or other services to the site of an unoccupied building, structure, erection, or excavation shall be shut off and capped at the property line and no unused open ends in waste or vent pipes or any plumbing system shall be permitted and shall be properly closed by plugs, caps or cleanouts properly screwed or soldered into place.

6. EXEMPTIONS AND EXCEPTIONS

6.1 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 premises.

6.2 The owner or a premise that carries on or permits the carrying on of any activities referred to in section 6.1 of this Bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the premises.

6.3 Whether or not an owner has taken "all reasonable steps" to minimize the duration and visual impact of any resulting untidiness or unsightliness of a premises, as referred to in section 6.2 of this Bylaw, is a question of fact to be determined by the Court hearing a prosecution pursuant to the provisions of this Bylaw.

7. INSPECTIONS

7.1 The Chief Administrative Officer and other duly appointed M.D. of Provost officials are charged with the responsibility and authority to enforce and carry out the provisions of this Bylaw. Any person so authorized and/or contracted by the CAO or the Council to carry out any inspection and remedial work on a premises or property pursuant to the provisions of this Bylaw shall have the right to enter upon such property, other than a dwelling house, to carry out such inspection or work.

7.2 A Peace Officer, when investigating an alleged contravention of this Bylaw, is hereby authorized to enter upon any lands, buildings or premises, other than a dwelling house, to inspect for conditions that may constitute a nuisance, or otherwise contravene the provisions of this Bylaw. A Peace Officer may thereafter issue a verbal or written order to the owner or occupant thereof to remedy any condition(s) of the subject premises or property that have been found to be in contravention of this Bylaw.

8. ENFORCEMENT

8.1 Where a Peace Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw, the Peace 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; or
- b. Swearing out an information and Complaint against the person.

8.2 Where a Peace Officer issues a person a Violation Ticket in accordance with section 8.1 of this Bylaw, the Officer may either:

- a. Allow the person to pay the specified penalty as provided for in sections 10.1 and 10.2 of this Bylaw by indicating such specified penalty on the Violation Ticket; or
- b. Require a Court appearance of the person where the Peace Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act.

8.3 Notwithstanding any other provision of this Bylaw, a Peace Officer, upon receiving and reviewing a nuisance or unsightly premises complaint, shall assess the nuisance being the subject of the complaint. The investigating officer shall then recommend or take whatever actions are considered appropriate to address the complaint, in all of the circumstances.

8.4 No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the M.D of Provost from pursuing any other remedy in relation to a premises or nuisance as provided by the Municipal Government Act, or any other law of the Province of Alberta

9. GENERAL PENALTY PROVISION

9.1 Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of TEN THOUSAND DOLLARS (\$10,000) or in default of payment of the fine to imprisonment for a period not exceeding on (1) year, or both fine and imprisonment in such amounts.

10. MINIMUM AND SPECIFIED PENALTIES

10.1 The specified penalty for a violation of any provision of this Bylaw is a fine in the amount of TWO HUNDRED DOLLARS (\$200.00), and the minimum fine allowable for any such violation is ONE HUNDRED DOLLARS (\$100.00).

10.2 Notwithstanding section 10.1 of this Bylaw, if a person violates the same provision of this Bylaw twice (or more) within a one-year period, the minimum penalty allowable for the second (and subsequent) such violation(s) shall be a fine in the amount of FIVE HUNDRED DOLLARS (\$500.00).

11. GENERAL

11.1 It is the intention of the Council of the M.D. of Provost that each provision

of this Bylaw should be considered as being separate and severable from all other provisions. Should any section or provision of this Bylaw be found to have been improperly enacted, then such section or provision shall be regarded as being severable from the rest of this Bylaw and that the Bylaw remaining after such severance shall remain effective and enforceable.

11.2 It is the intention on the Council of the M.D. of Provost that all offences created pursuant to this Bylaw be construed and considered as being strict liability offences.

11.3 Whenever the singular and masculine gender is used in this Bylaw, the same shall include the plural, feminine and neuter gender whenever the context so requires.

11.4 This Bylaw shall come into effect upon third reading and Bylaw 2115 of the M.D of Provost is hereby repealed upon this Bylaw coming into effect.

Read a first time this 13th day of March A.D., 2008.

Read a second time this 13th day of March A.D., 2008.

Read a third time and finally passed this 13th day of March A.D., 2008.