

TOWN OF HIGH RIVER
ALBERTA
BY-LAW NO. 3802/95

Amending Bylaw 4307/2011

Being a by-law of the Town of High River to regulate nuisances and unsightly premises.

WHEREAS

under Section 7 of the Municipal Government Act, R.S.A. 1994, Chapter M-26.1, Council may pass by-laws regulating nuisances and unsightly premises;

AND WHEREAS

nuisances and unsightly premises are a detriment to surrounding properties and the immediate neighbourhood generally;

AND WHEREAS

Council deems it advisable to pass a by-law to regulate nuisances and unsightly premises;

AND WHEREAS

the purpose of this By-law is to prevent the existence and proliferation of nuisances and unsightly premises and to provide a mechanism for the remediation of a property which has become a nuisance or an unsightly premises;

**NOW
THEREFORE**

THE COUNCIL OF THE TOWN OF HIGH RIVER ENACTS AS FOLLOWS:

1. This By-law shall be cited as the Nuisance and Unsightly Premises By-law.
2. In this By-law, unless the context otherwise requires, the term:
 - (a) "animal material" means any animal excrement and includes all material accumulated on a premises from pet pens, yards, stables, veterinary clinics or hospitals, kennels or feed lots;
 - (b) "ashes" means the powdery residue accumulated on a premises left after the combustion of any substances and includes any partially burnt wood, charcoal or coal;
 - (c) "building material" means all construction and demolition material accumulated on a premises while constructing, altering, repairing or demolishing any structure and includes, but is not limited to, earth, vegetation or rock displaced during such construction, alteration or repair;
 - (d) "Clean Up Order" means an Order issued under this by-law by an Enforcement Officer with respect to a nuisance or unsightly premises within the Town.
 - (e) "Director of Community Services" means the person appointed by the Town Manager as the Director of Community Services and includes any person designated by the Director of Community Services to act on his behalf;
 - (f) "Enforcement Officer" means any member of the R.C.M.P. or a By-law Enforcement Officer of the Town;
 - (g) "garbage" means material composed of organic matter which is or may become decomposed, including the by-products from the preparation, consumption or storage of food;

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(h) Nuisance means:

- (i) dandelions or noxious weeds (as defined in the Weed Control Act, Statutes of Alberta 2008, Chapter W-5.1), tall grass or other vegetation allowed to grow on lands whether occupied or unoccupied.
- (ii) trees growing on private property interfering or endangering the lines, poles, conduits, pipes, sewers or other works of the Town.
- (iii) allowing blight or disease of trees or shrubs or vegetable or plant life liable to spread to other trees or shrubs or plant life within the Town to go unchecked.
- (iv) the growth or accumulation upon premises or land of refuse, scrap iron, containers, dis-used equipment, or weeds or vegetation which in the opinion of the Enforcement Officer be liable to make such premises or lands appear untidy or unsightly.
- (v) permit any building, structure or erection of any kind whatsoever, or any excavation, depression, drain ditch, watercourse, pond, surface water, refuse or any other matter or thing in private lands, streets or road in or about any building or structure be dangerous to public safety or health.
- (vi) Any building, structure, or erection of any kind whatsoever, or any excavation, depression, drain ditch, watercourse, pond, surface water, refuse or other matter or thing upon any private land, street or road, in or about any building, premises or structure be dangerous public safety or health.

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shall

(i) "owner" means:

- (i) a person who is registered under the Land Titles Act R.S.A., 2000, Chapter L-5 as the owner of the land;
- (ii) the person who is recorded as the owner of the property on the 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 become the registered owner thereof;
- (iv) a person holding himself out as the person having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership.
- (v) a person controlling the property under construction, or a person who is the occupant of the property under a lease, license or permit;

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(j) "premises" means the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building or buildings, situated in whole or in part in the Town and includes any land or buildings owned or leased by the Town;

(k) "right of access" means the right of an Enforcement Officer to enter onto a property to inspect the property to determine whether to issue a Clean Up Order, or to allow work forces access to the property for the purposes of enforcing a Clean Up Order;

(l) "Town" means the municipal corporation of the Town of High River or the area contained within the Town boundaries as the context

requires;

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- (m) "unsightly premises" means any property or part of it which is characterized by visual evidence of a lack of general maintenance or upkeep by the excessive accumulation on the premises of, including but not limited to:
- the
rocks,
- (i) any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement or sewage or whole or a part of an animal carcass, dirt, soil, gravel, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken household dishes and utensils, boxes, cartons and discarded fabrics;
 - (ii) the whole or part of any motor vehicle, off road vehicle or vehicles
 - (A) which has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year, and
 - (B) which is inoperative by reason of removed parts, or equipment;
 - (iii) equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition and includes any household appliances;
 - (iv) animal material, yard material, ashes, building material and garbage as defined in this By-law;
- (n) "Nuisance and Unightly Premises Appeal Board" means the Council of the Town of High River.
- (o) "work forces" means Town employees or contract workers engaged by the Town for the purposes of enforcing a Clean Up Order;
- (p) "yard material" means organic matter formed as a result of gardening or horticultural pursuits and includes grass, trees and hedge cuttings and clippings.
3. No owner of a premises shall allow his or her premises to become nuisance or unsightly premises as defined in this By-law.
4. In determining whether a premises is a nuisance or unsightly premises as defined in this Bylaw an Enforcement Officer shall have regard to the use and location of the property.
5. If an Enforcement Officer has reason to believe that any property is a nuisance or unsightly premises he may exercise a right of access to the property in order to inspect the premises to determine whether the property contravenes the provision of this By-law.
6. (1) If an Enforcement Officer considers any property to be a nuisance or unsightly premises, the Enforcement Officer may issue a Clean Up Order.
- (2) Each Order:
- (a) shall describe the property by
 - (i) name, if any, and
 - (ii) the municipal address or legal description
 - (b) shall state that the property contravenes the provisions of this By-law.
 - (c) shall give reasonable particulars of the extent of the clean up,

removal, clearing or other actions required to be made.

- (d) shall state the time within which the clean up, removal, clearing or other actions are to be done.
 - (e) shall state that if the required actions are not done within the time specified, the Town may carry out the actions required and charge the cost thereof against the person to whom the Order is directed and if such person does not pay the costs, the costs shall be charged against the property concerned as taxes due and owing in respect of that property, and recovered as such.
 - (f) shall state that an appeal lies from the issuance of this Order to the Nuisance and Unsightly Premises Appeal Board if an appeal is lodged in writing with the Town Manager within fourteen (14) days.
7. (1) A copy of the Order shall be served upon the owner of the property and may be served on any person shown by the records of the Land Titles Office to have an interest in the property.
- (2) An Order referred to in subsection (1) may be served on the owner
- (a) by being delivered personally to the person who is intended to be served,
 - (b) by being left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served, or
 - (c) by being sent by double registered mail or certified mail to the last known address of the person who is intended to be served as shown on the assessment roll of the town and the Order shall be deemed to be served upon the expiry of three (3) days after the mailing of the Order.
- (3) If, in the opinion of the Enforcement Officer, service under subsection (2) cannot reasonably be effected, the Enforcement Officer may post the Clean Up Order or a copy of the Order in a conspicuous place on the land or property to which the Order relates, or on the private dwelling place of the person who is intended to be served and such Order is deemed to be served upon the expiry of three (3) days after such Clean Up Order is posted.
8. The Clean Up Order may require the person to whom it is addressed, within a period of time which shall not be more than thirty (30) days from the date of The making of the Order, but not less than fourteen (14) days
- (a) to remedy the condition of the property in a manner and to the extent directed in the Order,
 - (b) to remove any material causing or contributing to the unsightliness of the property,
 - (c) to place in waste receptacles any material causing or contributing to the unsightliness of the property, or
 - (d) to do all or any of the matters specified in Clauses (a) to (c).
9. The Enforcement Officer may extend the time for doing anything which is required to be done by the terms of the Order.
10. (1) Where a Clean Up Order is issued pursuant to Section 6 such Clean Up Order may be appealed within fourteen (14) days to the Nuisance and Unsightly Premises Appeal Board.
- (2) Where a Clean Up Order is appealed pursuant to subsection (1) the Order is stayed pending a final decision on the merits of the appeal by the Board.

11. (1) The Board that hears an appeal may confirm, vary, or revoke the Clean Up Order or may substitute its decision in place of the Clean Up Order which was issued.
 - (2) The Board may extend the time within which anything required to be done by the Clean Up Order is to be performed.
 - (3) The Board may direct anything to be done that an Enforcement Officer can direct to be done either in addition to or in substitution for the direction in the Order appealed from.
12. (1) Appellants must submit notice of their appeal in writing to the Town Manager within fourteen (14) days of the date of the issuance of the Clean Up Order.
 - (2) Each Notice of Appeal shall:
 - (a) state with reasonable exactness the grounds of appeal;
 - (b) state the name, address, and interest of the appellant in the property; and
 - (c) be dated, and signed by the appellant or on his behalf by his agent and, if signed by an agent, shall state the name and address of the agent.
13. The Board shall be the Council of the Town of High River.
 14. The Town Manager shall, upon receipt of the Notice of Appeal, set a date for the hearing of the appeal which shall be held within thirty (30) days of the receipt of the Town Manager of the Notice of Appeal.
 15. Any three members of the Board shall constitute a quorum and as such shall have jurisdiction to hear appeals before the Board.
 16. The Board shall adopt the rules of procedure for hearing appeals they deem appropriate.
 17. The Board shall consider each appeal having regard to the circumstances and merits of the case and the applicable provisions of this By-law.
 18. When hearing an appeal the Board:
 - (a) shall not be bound by the technical rules of evidence; and
 - (b) shall afford to every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.
 19. The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer or the requirements or directions set out in any decision of the Nuisance and Unightly Premises Appeal Board.
 20. (1) If a person to whom an Order is directed under this Bylaw fails to carry out the Order within the time stated in such Order, in the case of an Order that is not appealed, or within the time limited by the Board in the case of an Order that is appealed, an Enforcement Officer may exercise a right of access to the unsightly premises and may, with whatever work forces as are necessary, enter the premises against which the Order has been issued and carry out the Order.
 - (2) The Town or persons appointed by it may remove any fencing or other obstructions in carrying out the Order and shall replace or repair any fencing or other obstructions removed or damaged in the course of carrying out the Order.
 - (3) The expenses incurred by the Town in carrying out an Order under this

section constitute a debt owing to the Town from the person to whom the Order is directed.

- (4) Within thirty (30) days of ascertaining the amount of the expenses incurred by the Town in carrying out the Order, the Town shall send a demand for payment of these expenses to the person to whom the Order was directed.
- (5) Where the Town carries out an Order under this section and the person to whom the Order is directed fails, within thirty (30) days after a demand for payment the Town shall place the amount of the expenses incurred in carrying out the Order on the tax roll as an additional tax against the land concerned and that amount
- (a) forms a lien on the land in favour of the Town, and
- (b) shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the Municipal Government Act from the date the expenses were incurred, and that Act and the Tax recovery provisions of that Act apply to the enforcement, collection and recovery of the amount.
- (6) Where the Town carries out an Order under this Section the work forces shall deposit any material removed from an unsightly premises at a location designated by the Director of Community Services.
- (7) Notwithstanding subsection (6) where an Enforcement Officer is of the opinion that the material removed under subsection (6) has no value he may direct that the material be disposed of.
- (8) When material removed from an unsightly premises under subsection (6) is removed to a location specified by the Director of Community Services, the Director of Community Services may direct that the property be disposed of if the person to whom an Order has been issued does not remove the property within fourteen (14) days of being requested in writing to do so by the Director of Community Services.

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21. A person who contravenes Section 3 is guilty of an offence and liable
- (a) for a first offence, to a fine of TWO HUNDRED FIFTY DOLLARS (\$250.00) and in default of payment of imprisonment for a term of not more than five (5) days,
- (b) for a second offence, to a fine of FIVE HUNDRED DOLLARS (\$500.00) and in default of payment to imprisonment for a term of not more than twenty (20) days,
- (c) for a third offence, to a fine of ONE THOUSAND DOLLARS (\$1,000.00) and in default of payment to imprisonment for a term of not more than thirty (30) days, and,
- (d) for a fourth or subsequent offence to a fine of a maximum amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) or for a term of imprisonment not exceeding six (6) months.
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22. A person who contravenes Section 19 is guilty of an offence and liable
- (a) for a first offence, to a fine of ONE THOUSAND DOLLARS (\$1,000.00) and in default of payment to imprisonment for a term of not more than fifteen (15) days,
- (b) for a second offence, to a fine of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) and in default of payment to imprisonment for a term of not more than thirty (30) days,
- (c) for a third offence, to a fine of TWO THOUSAND DOLLARS (\$2,000.00) and in default of payment to imprisonment for a term of not more than ninety (90) days, and,

(d) for a fourth or subsequent offence to a fine of a maximum amount of
of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) or for a term
imprisonment not exceeding six (6) months.

23. By-law 3015/75 is hereby rescinded.

24. This By-law shall come into force and effect upon receiving third reading.

READ A FIRST TIME THIS 8TH DAY OF MAY A.D. 1995.

MAYOR/DEPUTY MAYOR

TOWN MANAGER

READ A SECOND TIME THIS 8TH DAY OF MAY A.D. 1995.

MAYOR/DEPUTY MAYOR

TOWN MANAGER

READ A THIRD AND FINAL TIME THIS 23RD DAY OF MAY A.D. 1995

MAYOR/DEPUTY MAYOR

TOWN MANAGER