

TOWN OF MUNDARE

BYLAW NO 907/20

PROPERTY NUISANCE AND UNDEVELOPED LOT BYLAW

BEING A BYLAW OF THE TOWN OF MUNDARE, IN THE PROVINCE OF ALBERTA, RESPECTING PROPERTY NUISANCES AND UNDEVELOPED LOTS FOR THE BENEFIT OF ALL CITIZENS

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26, authorizes a council to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26, authorizes a council to pass bylaws for municipal purposes respecting nuisances, including unsightly property;

AND WHEREAS Council believes the regulation of nuisances and undeveloped lots through a bylaw would benefit the community as a whole;

AND WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26, authorizes a council to pass bylaws for municipal purposes respecting the enforcement of bylaws made under the *Municipal Government Act* or any other enactment;

AND WHEREAS Council deems it desirable that the regulations herein supplement the Town of Mundare's Bylaw No 847/13 (Community Standards Bylaw);

NOW THEREFORE, Council of the Town of Mundare, in the Province of Alberta, duly assembled, enacts:

PART I – PURPOSE, DEFINITIONS AND INTERPRETATIONS

BYLAW TITLE

1. This Bylaw shall be known as the "Property Nuisance and Undeveloped Lot Bylaw"

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires:
 - a. **"Agricultural Equipment"** means any equipment, device, machine, vehicle, or attachment which is intended for use in farming or agricultural operations, but does not include lawn and garden equipment or handheld application devices;
 - b. **"Bylaw Enforcement Officer"** means a Bylaw Enforcement Officer appointed by the Town pursuant to the *Municipal Government Act* to enforce Town Bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a

Community Peace Officer appointed under the *Peace Officer Act*, S.A. 2006, c. P-3.5;

- c. **“Erosion”** means the detachment or movement of soil, sediment or rock fragments by water, wind, ice, snow or gravity;
- d. **“Municipal Tag”** means a tag or similar document issued by the Town pursuant to the *Municipal Government Act* that alleges a bylaw offence and provides a person with the opportunity to pay an amount to the Town in lieu of prosecution for the offence;
- e. **“Occupant”** means a Person that occupies a Property;
- f. **“Occupy”** or **“Occupies”** means residing on or to be in apparent possession or control of Property;
- g. **“Own”** or **“Owns”** means:
 - i. in the case of land, to be registered under the *Land Titles Act*, R.S.A. 2000, c. L-4, as the owner of the fee simple estate in a parcel of land; or
 - ii. in the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it;
- h. **“Person”** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative;
- i. **“Property”** means:
 - i. In the case of land, a parcel of land including any buildings; or
 - ii. In other cases, personal property;
- j. **“Residential Area”** means any Residential District defined as such under the Town’s Land Use Bylaw, as amended from time to time;
- k. **“Town”** means the Town of Mundare;
- l. **“Town Manager”** means the chief administrative officer of the Town or the chief administrative officer’s delegate;
- m. **“Violation Ticket”** has the same meaning as in the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34.

RULES FOR INTEPRETATION

- 3. The table of contents, marginal notes and headings in this Bylaw are for reference purposes only.

PART II – PROPERTY NUISANCES

DEFINITIONS

4. In this Part:
 - a. “Property Nuisance” means any use of or activity on land which in the opinion of a designated officer is untidy, unsightly, offensive or dangerous to health, or has or may have a detrimental impact on any Person or other property, or which creates an unreasonable interference with the use or enjoyment of other property whether or not it is detrimental to the surrounding areas, some examples of which include, but are not limited to, the following:
 - i. production of excessive odour, emission, dust, dirt or smoke;
 - ii. production of any generally offensive odours;
 - iii. open or exposed storage of industrial fluids, including engine oil, brake fluid or anti-freeze;
 - b. “unsightly” or “untidy” means:
 - i. A Property that because of its condition or the accumulation of refuse is detrimental to the use and enjoyment of the surrounding area or neighboring properties;
 - ii. A Property that shows signs of serious disregard for general maintenance, upkeep or repair, or which constitutes a Property Nuisance; or
 - iii. In an unsightly condition within the meaning of s. 546 of the *Municipal Government Act*.

PROPERTY NUISANCE

5. No Owner or Occupant shall allow Property which they Own or Occupy to become detrimental to the use and enjoyment of the surrounding area or neighbouring properties because of its condition.
6. No Owner of Occupant of a Property shall cause or permit the following on a Property they Own or Occupy:
 - a. a Property Nuisance;
 - b. the use or application of a pesticide, insecticide, fertilizer, herbicide or fungicide in a manner that results in spray drift to neighbouring lands or has significant detrimental effects on the surrounding lands;
 - c. the growth or presence of prohibited weeds or controlled noxious weeds;
 - d. the spread of nuisance weeds to neighbouring lands;

- e. any excavation, ditch, drain or standing water that could pose a danger to the public or contribute to environmental hazards; or
 - f. the presence of water or any other substance that could or does drain or escape from the Property onto neighbouring lands or cause excessive Erosion.
7. No Owner or Occupant shall use Agricultural Equipment to apply, spray, distribute or otherwise use, or cause to be applied, sprayed, distributed or otherwise used, any pesticide, insecticide, fertilizer, herbicide or fungicide in a Residential Area.

UNDEVELOPED LANDS

8. No Owner or Occupant shall allow a Property which they Own or Occupy to remain undeveloped for more than twelve (12) months. In this section “undeveloped” shall mean bare earth, dirt, clay, loam or other low absorbency surface material which contributes to the pooling of water on the surface or drainage of water onto neighbouring properties, roads or public lands, and does not include landscaping such as grass, vegetation or other vegetal groundcover, provided such landscaping does not cause the Property to become or become non-compliant with this or any other Town Bylaw, including the Community Standards Bylaw.
9. Notwithstanding the foregoing, no Owner or Occupant shall allow a Property which they Own or Occupy to remain undeveloped for more than four (4) months if such Property has been undeveloped for a period of twelve (12) or more months on the date that this Bylaw comes into force.

PART III – ENFORCEMENT

OFFENCE

10. Any Person who contravenes any provisions of this Bylaw is guilty of an offence and liable upon summary conviction:
- a. for the first offence, to a specified penalty as set out in Schedule “A” attached hereto and forming part of this Bylaw;
 - b. for the second or subsequent offence occurring within 365 days of the previous offence, to a specified penalty of double the original penalty as set out in Schedule “A” attached hereto and forming part of this Bylaw; or,
 - c. where no specific penalty is specified, a penalty of not less than One Hundred (\$100.00) Dollars and not more than Two Thousand Five Hundred Dollars (\$2,500.00) to be imposed in the discretion of the Court having jurisdiction, having regard to s. 7(i) of the *Municipal Government Act*.

MUNICIPAL TAG

11. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provisions of this Bylaw.

12. Where a Municipal Tag is issued pursuant to this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay the Town the penalty specified on the Municipal Tag.

VIOLATION TICKET

13. If the penalty specified on the Municipal Tag is not paid within the prescribed time period then a Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*.
14. Notwithstanding anything else in this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedures Act*, as amended, to any Person who the Peace Officer has reasonable grounds to believe has contravened any provisions of this Bylaw.
15. 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.

CONTINUING OFFENCE

16. In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence in respect of each day, or part of a day, on which it continues and a Person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such day.

VICARIOUS LIABILITY

17. 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 exercising the powers or performing the duties on behalf of the Person under their agency relationship.

CORPORATIONS AND PARTNERSHIPS

18. 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.
19. 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.

ORDER TO COMPLY

20. Notwithstanding anything else in this Bylaw:

- a. If the Town Manager believes, on reasonable grounds, that a Person is contravening any provision of this Bylaw, the Town Manager may, by written order, require any Person responsible for the contravention to remedy it.
- b. The order may:
 - i. direct a Person to stop doing something, or to change the way in which the Person is doing it;
 - ii. direct a Person to take any action or measures necessary to remedy the contravention of the Bylaw and, if necessary, to prevent a re-occurrence of the contravention;
 - iii. state a time within which the Person must comply with the directions;
 - iv. state that if the Person does not comply with the directions within a specified time, the Town will take the action or measure.
- c. A Person named in and served with an order issued pursuant to this section shall comply with any action or measure required to be taken within the time specified.
- d. An order issued pursuant to this section may be served:
 - i. in the case of an individual:
 - (1) by delivering it personally to the individual;
 - (2) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age; or
 - (3) by mail addressed to the individual at their apparent place of residence or at any address for the individual on the tax roll of the Town or at the Land Titles registry;
 - ii. in the case of a corporation:
 - (1) by delivering it personally to any director or officer of the corporation;
 - (2) by delivering it personally to a Person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or
 - (3) by mail addressed to the registered office of the corporation.

OBSTRUCTION

21. A Person shall not obstruct or hinder any Person in the exercise or performance of the Person's powers pursuant to this Bylaw.

PART IV – GENERAL

POWERS OF THE TOWN MANAGER

22. Without restricting any other power, duty or function granted by this Bylaw, the Town Manager 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. delegate any powers, duties or functions under this Bylaw to an employee of the Town; and
 - g. appoint inspectors for the purposes of the *Agricultural Pest Act*, R.S.A. 2000, c. A-8.

CERTIFIED COPY OF RECORD

23. A copy of a record of the Town, certified by the Town Manager as a true copy of the original, shall be admitted in evidence as prima facie proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

NUMBER AND GENDER REFERENCES

24. 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.

SEVERABILITY

25. 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.
26. The Town, a Bylaw Enforcement Officer or any Person who inspects Property under this Bylaw or any person who performs work on behalf of the Town is not liable for any damages caused by the inspection, the work or disposing of anything referred to in an Order.

PART V – TRANSITIONAL

ENACTMENT

27. This Bylaw shall come into force and effect when it receives Third Reading and is duly signed.

READ A FIRST TIME IN COUNCIL THIS ___ DAY OF _____, 2020.

READ A SECOND TIME IN COUNCIL THIS ___ DAY OF _____, 2020.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS ___ DAY OF _____, 2020.

MAYOR

CLERK

_____, 2020
Date Signed

Schedule A

Section	Description of the Offence	Penalty (First Offence)
	Property Nuisance	250
	Leaving a Property undeveloped for more than 12 months	250
	Obstruction of Enforcement	250