

BYLAW NO. 2009-533

BEING A BYLAW OF THE VILLAGE OF MUNSON IN THE
PROVINCE OF ALBERTA TO REGULATE UNSIGHTLY PROPERTY

WHEREAS, the Municipal Government Act RSA 2000, c M-26 and regulations as amended, provides that Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people; the protection of people and property; nuisances; services provided by or on behalf of the municipality; public utilities; and the enforcement of bylaws

AND WHEREAS, no Owner or Occupant in control of property, land, premises or building shall permit, suffer, continue or allow to be continued an unsightly condition on that property, land, premises or building;

AND WHEREAS, Section 546 of the Municipal Government Act RSA 2000 c M-26 and regulations as amended, authorizes Council to require the owner of the property that is in an unsightly condition to improve the appearance of the property.

NOW, THEREFORE, the Council of the Village of Munson, in the Province of Alberta, hereby enacts as follows:

TITLE

1. This Bylaw may be referred to as the "Unsightly Property Bylaw"

DEFINITIONS

2. In this Bylaw, unless the content requires:

- a) "Act" means the Municipal Government Act RSA 2000 c-M-26 and regulations made under the Municipal Government Act as amended;
- b) "Adjacent" means land that is contiguous to the land that is the subject of a complaint and includes land or portion of land that would be contiguous if not for a public road, railway, right-of-way, public utility lot or reserve lot
- c) "Animal Material" means any animal excrement and includes all material accumulated on premises from pet pens, yards, stables, veterinary clinics or hospitals, kennels or feed lots;
- d) "Bylaw" means the Village of Munson Bylaw 2009-530 as may be amended from time to time;
- e) "Bylaw Enforcement Officer" means a person appointed to enforce the provisions of this Bylaw, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.
- f) "Chief Administrative Officer" means the Person appointed to the position of Chief Administrative Officer by the Council of the Village of Munson and includes any Person that the Chief Administrative Officer may appoint as the designate for purposes of carrying out his responsibilities under this Bylaw and further includes any person that maybe appointed to act in the absence of the Chief Administrative Officer;
- g) "Council" means the Municipal Council of the Village of Munson;
- h) "Designated Officer" is defined under Section 210 of the Municipal Government Act
- i) "Improvement" means a structure or anything attached or secured to a structure that would be transferred without special mention by a transfer

or sale of the structure, including but not limited to a manufactured home or mobile home, or machinery and equipment.

- j) "Occupant" means any person other than the Registered Owner who is in possession of the Property, including, but not restricted to, a lessee, tenant or agent of the Owner.
- k) "Order" means a document issued by a Designated Officer pursuant to s.6 of the Bylaw or s.545 or s.546 of the *Act* requiring any Person to take any action necessary to remedy the contravention of this Bylaw or the *Act*.
- l) "Owner" includes the person shown as the owner on the Land Title for a property, the occupant of a premises, the lessee or tenant of a premises or the owner or operator of a commercial operation, as the case may require;
- m) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- n) "Premises" means and includes land, buildings, excavations, stockpiles, structures and appurtenances, or any personal property located thereupon, within the municipal boundaries of the Village;
- o) "Property" means a parcel of land; and improvement, or; a parcel of land and the improvements to it.
- p) "Structure" means a building or other thing 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.
- q) "Village" means the Village of Munson, a Municipal Corporation in the Province of Alberta, or the geographical area contained within the boundaries of the Village of Munson, as the context may require
- r) "Unightly Property" property described in Section 3 of this Bylaw
- s) "Violation Tag" means a tag or similar document issued by the Village pursuant to the *Act*;
- t) "Violation Ticket" means a ticket issued pursuant to Part 11 of the Provincial Offences Procedures Act, RSA 2000, c P-34, as amended or repealed and replaced from time to time, and any Regulations thereto

UNSIGHTLY PROPERTY

- 3. Unightly Property is Property that, in the opinion of the Designated Officer, is detrimental to the surrounding area because of its unsightly condition as defined in s.546 of the *Act*
- 4. Some factors which may be considered by a Designated Officer in determining whether property is Unightly Property include the following:
 - a) the presence of uncut grass or weeds
 - b) the presence of wrecked or dismantled vehicles, including vehicles that are inoperable and unregistered
 - c) the storage or accumulation of waste, litter, refuse (including but not limited to building materials, tires, boxes, scrap material), equipment, dilapidated furniture or appliances, machinery, parts or other similar materials or items, human excrement, sewage, the whole or a part of an animal carcass, petroleum products, hazardous materials or animal material;
 - d) the whole or part of any motor vehicle as defined under the Traffic Safety Act, R.S.A. 2000 c T-6 as amended, as well as any tractor or implement of husbandry

- 1) which has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year, or
 - 2) which is inoperative by reason of disassembly, age or mechanical condition
 - 3) equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition includes any household appliances
 - 4) which is rusted, wrecked, partially wrecked, dismantled, partly dismantled, or inoperative condition, and is not located within a structure or located on Premises such that it can be concealed from view
 - 5) No person being the owner, lessee, tenant, agent, manager, or occupant of any land or premises within the Village of Munson shall allow a dilapidated or derelict vehicle to remain on the aforementioned land or premises for a period of more than fourteen (14) days.
- e) Notwithstanding Section 4(d) a person being the owner, lessee, tenant, agent, manager, or occupant of any land or premises within the Village of Munson, may allow a dilapidated or derelict vehicle to remain on the aforementioned land or premises provided that:
- i) The vehicle is contained within a structure, authorized under the Land Use Bylaw for the Village which it prevents it from being viewed from any neighboring property or public area
 - ii) The vehicle is covered by a tarpaulin or other device which prevents it from being viewed from any neighboring property or public area. The tarpaulin cannot be in a ripped or torn state. The tarpaulin can be requested to be replaced as needed.
- f) specific or general lack of repair or maintenance including but not limited to:
1. significant deterioration of Improvements or portions of Improvements;
 2. broken or missing windows, siding, shingles, shutters, eaves or other building materials; or,
 3. significant fading, chipping or peeling of painted areas of improvements;
- g) the location, zoning, use and visibility of property
- h) that the owner, lessee, tenant or agent of the owner be required to cut grass including that on boulevards, alleys and ditches which abuts or flanks a property occupied by him or her; weed, prune trees or shrubs which interfere with lines, poles or conduits or other works of the Village;
- i) providing for the eradication of dandelions and noxious weeds or plants to prevent seeding and the cutting of grass on public or private property
- j) the flow of water from a hose, eaves trough, or downspout or similar device on the premises positioned such as that it is likely that the water from the hose, eaves trough, downspout or similar device will enter the Adjacent Premises or property
- k) the accumulation of building materials, whether new or used unless the Owner or Occupant can establish that a construction or renovation undertaking is being carried out on the Premises and that the undertaking

- k) the accumulation of building materials, whether new or used unless the Owner or Occupant can establish that a construction or renovation undertaking is being carried out on the Premises and that the undertaking has begun or the beginning of the work is imminent; and that the material is stacked or stored in an orderly manner
- l) No person being the owner, lessee, tenant, agent, manager, or occupant of any land or premises within the Village of Munson, shall allow:
 - i. A commercial vehicle with a gross vehicle weight (GVW) rating in excess of 9000 pounds to remain on site or street in a residential or mobile home district for longer than is reasonably necessary to load or unload the vehicle and not being more than 24 hours
 - ii. Any vehicle to be parked within the Village of Munson that contains dangerous goods.

INSPECTION

A Designated Officer may inspect Property in accordance with Section 542 of the *Act* for the purposes of determining whether:

- a) Property is Unsightly Property under this Bylaw because its unsightly condition is detrimental to the surrounding area in accordance with s. 546 of the *Act*
- b) there has been compliance with an Order issued under s.7 of this Bylaw;
- c) there has been compliance with an Order issued in accordance with subsection 546(1)(c) of the *Act*
- m) The Village may apply to the Court of Queen's Bench to authorize inspection and enforcement in accordance with s.543 of the *Act* if a person refuses to allow or interferes with entry for inspection.

ORDER

- n) If, in the opinion of a Designated Officer, Property is detrimental to the surrounding area because of its unsightly condition, the Designated Officer may issue a written Order in accordance with subsection 546 (1) (c) of the *Act* to the owner or occupant of the property to improve the appearance of the property in the manner specified within a period of ten (10) days from the date of the issuance of the Order.

REMEDY UNSIGHTLY CONDITION OF PROPERTY

- o) If an Order has been issued under s.7 of this Bylaw and not complied within the time period set out in that Order, the Village may take whatever actions or measures are necessary to:
 - a. deal with the unsightly condition of the Property in accordance with s.550 of the *Act*; and,
 - b. collect any unpaid costs or expenses incurred by the Village in accordance with the *Act*

The costs and expenses of the actions or measures taken by the Village are charged in addition to any penalty imposed under this Bylaw.

REVIEW OF ORDERS

- p) A Person who receives an Order may by written notice, within seven (7) days after the order is received, request Council to review the Order in accordance with subsection 547 (1) (b) of the *Act*

11. A Person affected by the decision of Council under s.10 of this Bylaw may appeal to the Court of Queen's Bench in accordance with s.548 of the *Act*

OFFENCES AND PENALTIES

12. Any Person who breaches any provision of this Bylaw is guilty of an offence, and upon summary conviction, shall be liable to the specified penalties set out at Schedule "A" of this Bylaw, as amended by resolution of Council from time to time.

13. Any Person who contravenes any provision of this Bylaw is guilty of an offence and liable:

a) A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has Contravened any provision of this Bylaw.

b) A Violation Tag may be issued to such Person:

- i. Personally; or
- ii. By mailing a copy to such Person at his/her last known post office address; or
- iii. If being issued to a corporation by serving the Violation Tag personally upon the manager, secretary, receptionist or other officer or Person apparently in charge at any premise of the corporation, or by mailing a copy to such corporation by registered mail

c) the Violation tag shall state:

- i) the name of the Person;
- ii) the municipal or legal description of the land on or near where the offence took place;
- iii) the offence;
- iv) the penalty for the offence as set out in s.12 of this Bylaw;
- v) that the penalty shall be paid within ten(10) days of the issuance of the Violation Tag; and
- vi) any other information as maybe required by the Chief Administrative Officer or by the provisions of the *Act*

14. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Bylaw Enforcement Officer provided, however, that no more than one Violation Tag shall be issued for each day that the contravention continues.

15. Where the Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pat to the Village the penalty specified on the Violation Tag

16. a) Notwithstanding any provision of this Bylaw a Bylaw Enforcement Officer is hereby authorized and empowered, without having first issued a Violation Tag and at the Bylaw Enforcement Officer's discretion, to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act RSA 2000, c P-34, to any Person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

b) A Violation Ticket issued pursuant to this Bylaw shall be issued in the form and manner specified by the Provincial Offences Act RSA 2000, c P-34, and any regulations made there under.

SEVERABILITY

17. It is the intention of Council that each separate provision of this Bylaw shall be deemed independent of all other provisions herein and it is the further intention of Council that if any provision of this Bylaw is declared invalid, all other provisions hereof shall remain valid and enforceable.

REPEAL OF BYLAW

18. That Bylaw #96-442 and amendments thereto are hereby repealed.

EFFECTIVE DATE

19. This Bylaw shall take effect at the date of final passing thereof.

Read a first time this 22 day of July, 2009

Read a second time this 22 day of July, 2009.

Read a third time this 22 day of July, 2009.


Mayor David Vanderkolk


Administrator Lyle Cawiezel

SCHEDULE A

Specified Penalties

Offence

Specified Penalty

Contravention of any Provision of this Bylaw

\$350.00

Second Offence within one year

\$700.00

Third or subsequent Offence within one year

\$1500.00