

**TOWN OF PEACE RIVER
BYLAW NO. 2061**

BEING A BYLAW OF THE TOWN OF PEACE RIVER IN THE PROVINCE OF
ALBERTA TO REGULATE NUISANCES AND UNSIGHTLY PROPERTY

WHEREAS the *Municipal Government Act*, RSA 2000, c M-26 provides the Council of the Town of Peace River the authority to pass Bylaws respecting Nuisances and Unsightly Property; and

WHEREAS the Council of the Town of Peace River finds that Nuisances and Unsightly Property are a detriment to surrounding properties and the general appearance of the Town of Peace River; and

WHEREAS the Council of the Town of Peace River deems it advisable to repeal and replace Bylaws 1426, 1558, 1703, 1707, 2055 and amendments thereto;

NOW THEREFORE, the Council of the Town of Peace River, in the Province of Alberta, duly assembled, enacts as follows:

TITLE

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

2. DEFINITIONS AND INTERPRETATION

The following definitions shall apply in this Bylaw:

- 1) "Abandoned Equipment" means equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition, and includes any household appliance stored outside of a residence or other building regardless of whether it is in an inoperative condition;
- 2) "Abandoned Vehicle" means the whole or any part of any motor vehicle or farm implement that:
 - a. is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition; or
 - b. has no current license plate attached to it and in respect of which no registration certificate has been issued for the current year;
- 3) "Appeal Notice" means a written request for review of a Clean-up Order submitted by an Appellant;

- 4) "Appellant" means a Person named in a Clean-up Order who applies for review of the Clean-up Order by the Board;
- 5) "Board" means the Unsightly Property Appeal Board established by this Bylaw that is empowered to hear and determine appeals lodged against Clean-up Orders issued by an Enforcement Officer;
- 6) "Boulevard" means
 - a. that portion of the highway lying between the curb line of a highway and the adjacent property line, whether actually painted or improved or not, excepting that portion occupied by a sidewalk, or
 - b. where there is no curb that portion of a highway lying between the portion of the highway ordinarily traveled by vehicles and the adjacent property line, whether actually painted or not, excepting that portion occupied by a sidewalk; and
 - c. as defined by the *Traffic Safety Act*, RSA 2000, c T-6;
- 7) "Building Material" means all construction and demolition material accumulated on a Property 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;
- 8) "Chief Administrative Officer" means the Chief Administrative Officer of the Town of Peace River or delegate;
- 9) "Clean-up Order" means an order issued under this Bylaw with respect to a Nuisance or Unsightly Property in the Town;
- 10) "Council" means the Council of the Town of Peace River;
- 11) "Enforcement Officer" means an individual appointed by the Town pursuant to the *Municipal Government Act* for the purpose of enforcing Town Bylaws;
- 12) "Highway" has the meaning set out in the *Traffic Safety Act*, RSA 2000, c T-6;
- 13) "*Municipal Government Act*" means the *Municipal Government Act*, RSA 2000, c M-26;

- 14) "Noxious Weed" means a noxious weed or prohibited noxious weed designated by the Weed Control Regulation, Alta Reg 125/2016;
- 15) "Nuisance" means any condition or use of Property which, in the opinion of an Enforcement Officer, constitutes an unreasonable interference with the use and enjoyment of other Property and includes, without limiting the forgoing, those conditions set out at Section 9;
- 16) "Occupant" means any person who is in possession of the Property, including, but not restricted to, a lessee, licensee, tenant or agent of the Owner;
- 17) "Owner" means
 - a. any Person registered as the owner of property under the *Land Titles Act*, R.S.A. 2000, c.L-4;
 - b. a Person who is recorded as the Owner of the Property on the assessment roll of the Town;
 - c. a Person who has purchased or otherwise acquired the Property, whether they have purchased or otherwise acquired directly from the Owner or from another purchaser, and has not become the registered Owner of the Property;
 - d. a Person holding themselves out as the person having the powers and authority of ownership or for whom the time being exercises the powers and authority of ownership; or
 - e. a Person controlling the Property under construction;
- 18) "Person" includes a corporation, an individual, and the heirs, executors, administrators or other legal representatives of an individual;
- 19) "Property" means any lands, buildings, structures, fences or premises, or any personal property located thereupon, within the municipal boundaries of the Town;
- 20) "*Provincial Offences Procedures Act*" means the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-34;

- 21) "Public Lands" means all lands under the ownership and control of Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Alberta, or the Town;
 - 22) "Refuse" means all solid and liquid wastes including, but not limited to, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, chemicals, hazardous materials, tires, manure or any other form of waste or litter;
 - 23) "Town" means the Town of Peace River;
 - 24) "Unightly Property" means any Property that, in the opinion of an Enforcement Officer, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the unsightly Property, or is otherwise detrimental to the surrounding area or in an unsightly condition as defined by the *Municipal Government Act*; and
 - 25) "Violation Ticket" means a ticket issued pursuant to the *Provincial Offences Procedure Act*, and any regulations thereunder.
3. In this Bylaw, whenever there is a reference to a statute or regulation, that reference includes a reference to the statute or regulation as amended or repealed and replaced from time to time.

PROHIBITIONS

4. An Owner or Occupant of a Property shall not cause or allow that Property or the use of that Property to constitute a Nuisance.
5. An Owner or Occupant of a Property shall not cause or allow that Property to be an Unightly Property.
6. No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or be stored upon Property owned or occupied by the Person, or under the Person's responsibility.
7. No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or be stored upon:
 - 1) the Boulevard adjacent to Property owned or occupied by the Person, or under the Person's responsibility; or

- 2) that portion of a Highway adjacent to Property owned or occupied by the Person or under the Person's responsibility that lies between that Property and the centre line of that Highway; or
 - 3) any public utility lot (PUL) or other public lands.
8. The Owner or Occupant of any Property within the Town shall cut the grass and control any Noxious Weeds on the Property, the Boulevard adjacent to the Property and on that portion of a Highway adjacent to the Property that lies between the Property and the centre line of that Highway.
9. Conditions on a Property constituting a Nuisance or Unsightly Property may include, but are not be limited to:
- 1) the accumulation of Refuse or other waste products on Property;
 - 2) uncut grass or the presence of Noxious Weeds, which in the opinion of the Enforcement Officer, are excessive or which demonstrate neglect by the Owner or Occupant;
 - 3) the accumulation of animal material, yard material, ashes or Building Material;
 - 4) the accumulation of Abandoned Equipment or Abandoned Vehicles;
 - 5) the presence or accumulation of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
 - 6) the presence of trees, shrubs, weeds or other vegetation which as a result of its location on the Property has caused, or is causing damage to adjacent Property, including Public Lands; or
 - 7) the failure by the Owner or Occupant to dispose of Refuse or other waste products accumulating in temporary storage containers upon the Property.

ENFORCEMENT

10. For the purpose of ensuring that the provisions of this Bylaw are being complied with, an Enforcement Officer may enter in or upon any Property, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other

action required or authorized by this Bylaw, *the Municipal Government Act*, or other statute.

11. When exercising authority to enter onto Property for inspection or enforcement under Section 10, an Enforcement Officer shall provide the Owner or Occupant of the Property with reasonable notice as required by the *Municipal Government Act*.
12. If an Enforcement Officer considers any Property to be a Nuisance or Unsightly Property, the Enforcement Officer may issue a Clean-up Order to the Owner or Occupant or both requiring them to remedy the contravention in any manner deemed necessary in the circumstances pursuant to Section 545 of the *Municipal Government Act* in the case of a Nuisance, or Section 546 of the *Municipal Government Act* in the case of an Unsightly Property.
13. An Enforcement Officer shall consider the use and location of the Property in determining if a Property is a Nuisance or Unsightly Property.
14. The Enforcement Officer issuing a Clean-up Order shall issue the Clean-up Order in the form attached as Schedule "A".
15. The Enforcement Officer issuing a Clean-up Order may in the Clean-up Order:
 - 1) direct an Owner or Occupant to stop doing something, or to change the way in which the Owner or Occupant is doing that thing;
 - 2) require the Owner or Occupant of the Nuisance or Unsightly Property to improve the appearance of the Property in the manner specified, or if the Property is a building, structure or improvement, to remove or demolish that building, structure or improvement and level the Property if necessary, to prevent a re-occurrence of the contravention;
 - 3) state a time within which the Person must comply with the directions; and
 - 4) state that if the Person does not comply with the directions within a specified time, the Town will take the action or measure at the Person's expense.
16. A copy of the Clean-up Order shall be served on the Owner of the Property and any Person named in the Clean-up Order and may be served on an Occupant of the Property or on any person shown by

the record of the Land Titles office to have an interest in the Property, as determined by the Enforcement Officer.

APPEALS

17. Pursuant to the requirements in Section 203(2)(e) of the *Municipal Government Act*, the authority to hear appeals arising from this Bylaw are delegated to the Nuisances and Unsightly Property Appeal Board. A Person named in a Clean-up Order may request a review of the Clean-up Order by the Board
18. The Appellant must request a review by written notice in substantially same form as the Appeal Notice attached as Schedule "B".
19. In the Appeal Notice, the Appellant must:
 - 1) state the grounds of appeal;
 - 2) date and sign the Appeal Notice, or if an agent is submitting the Appeal Notice on the Appellant's behalf, the agent must date and sign the Appeal Notice and state the name and address of the agent and the Appellant; and
 - 3) provide a fee of \$200.00 with the Appeal Notice.
20. The Town shall return the fee to the Appellant if the Board revokes the entirety of the Clean-up Order.
21. The Appellant must submit the Appeal Notice and the fee to the Town within fourteen (14) days of the day on which the Clean-up Order is served on the Appellant.
22. The Town shall schedule the review of the Clean-up Order by the Board as soon as reasonably possible, but in any event no later than 30 days from the date of receipt of the Appeal Notice.
23. The Board shall consist of members of Council.
24. Any three members of Council constitute a quorum to hear appeals.
25. After reviewing the Clean-up Order and the Appeal Notice, the Board may confirm, vary, substitute or cancel the Clean-up Order. The Board shall issue a decision in writing.
26. The Board is not bound by strict rules of evidence and may establish its own procedures for Appeals.

OFFENSES AND PENALTIES

27. Any Person who contravenes any provision of this Bylaw by:
- 1) doing any act or thing which the Person is prohibited from doing; or
 - 2) failing to do any act or thing the Person is required to do;
- is guilty of an offence and is liable to a fine in the amount of \$1,000.
28. Despite section 27, any Person who violates the same provision of this Bylaw more than once in the same one year period, is guilty of an offence and is liable to a fine in the amount of \$2,500.
29. Under no circumstances shall any Person contravening any provision of this Bylaw be subject to a penalty of imprisonment.
30. Where an Enforcement Officer believes that a Person has contravened any provision of this Bylaw, the Enforcement Officer may commence proceedings against the Person by issuing a Violation Ticket pursuant to the *Provincial Offences Procedures Act*, Part 2 or Part 3.
31. A Violation Ticket shall state if it is issued under Part 2 or Part 3 of the *Provincial Offences Procedures Act*.
32. A Violation Ticket issued under Part 2 of the *Provincial Offences Procedures Act* shall contain the information required in section 25 of the *Provincial Offences Procedures Act* and shall be served on the person to whom it is issued in accordance with the provisions of the *Provincial Offences Procedures Act*.
33. A Violation Ticket issued under Part 3 of the *Provincial Offences Procedures Act* shall contain the information required in section 31 of the *Provincial Offences Procedures Act* and shall be served on the person to whom it is issued in accordance with the provisions of the *Provincial Offences Procedures Act*.
34. In the case of an offence that is of a continuous nature, a contravention constitutes a separate offence in respect of each day, or part of 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.
35. A Person who commits an offence may, if a violation ticket is issued in respect of the offence, pay the fine amount established by this Bylaw for the offence and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.

36. The levying and payment of any fine provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which that Person is liable under the provisions of this Bylaw or any other Bylaw.

NOTICE

37. A Clean-up Order or any other notice under this Bylaw, except for notice provided under the heading "Offenses and Penalties", is deemed to have been served on the Owner or Occupant, when it has been:

- 1) personally delivered to the Owner or Occupant;
- 2) left for the Owner or Occupant at the Owner's residence or the Occupant's residence with a person on the Property who appears to be at least eighteen (18) years of age;
- 3) sent via registered mail addressed to the last known postal address of the Owner or Occupant; or
- 4) posted in a conspicuous place on the Property referred to on the Clean-up Order or other notice under this Bylaw, when the Enforcement Officer has reason to believe:
 - a. that the Owner or Occupant to whom the Clean-up Order or other notice under this Bylaw is addressed is evading service; or
 - b. no other means of services available.

38. If a Clean-up Order or other notice under this Bylaw is sent via registered mail as referred to in Section 37(3), then it is deemed to be received by the Owner or Occupant five (5) days after the Clean-up Order was mailed.

SEVERABILITY

39. If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion shall be severed and the remaining Bylaw shall be maintained.

REPEALS

40. Bylaws Nos. 1426, 1558, 1703, 1707, 2055 and amendments thereto are hereby repealed.

SCHEDULES

41. This Bylaw contains Schedules "A" and "B", which form part of this Bylaw.

EFFECTIVE DATE


42. This Bylaw shall come into force and have effect on the date of third and final reading.

READ a first time this 12 day of November, 2019.

READ a second time this 12 day of November, 2019.

READ a third and final time this 12 day of November, 2019.

SIGNED by the Mayor and Chief Administrative Officer this 21 day of November, 2019.



Thomas Tarney
Mayor



Christopher J. Parker
Chief Administrative Officer

Schedule A



File no.

**UNSIGHTLY PREMISES BYLAW NO. 2061
CLEAN UP ORDER**

DATE:

TO:

Peace River, AB
T8S

PROPERTY Municipal Address:

**Legal Address: Lot -
Block -
Plan -**

Peace River, AB

The above noted property is in violation of the NUISANCE AND UNSIGHTLY PROPERTY BYLAW.

YOU ARE DIRECTED TO:

- 1.

If you do not remedy the above matters by _____, you may be fined \$1000.00 for the first offence and \$2500.00 for any subsequent offences. If you do not comply with this Order, the Town of Peace River may do the work set out above and the cost of the work, together with any unpaid fines may be recovered from you as a debt due to the Town or such costs may be charged against the property as taxes due and owing.

Town of Peace River

Per:

Enforcement Officer

DATE OF CLEAN UP ORDER:

Note: You may appeal this Clean Up Order, in writing, within a period of fourteen (14) days of the date on the Clean Up Order, using the attached Appeal Notice Form. The appeal should be delivered personally to the Chief Administrative Officer or sent by registered mail to the Chief Administrative Officer.

Schedule B



Nuisance and Unsightly Property Bylaw No. 2061

Appeal Notice

IF YOU WANT TO APPEAL THE CLEAN UP ORDER, YOU MUST RETURN THIS APPEAL NOTICE TO THE CHIEF ADMINISTRATIVE OFFICER WITHIN FOURTEEN (14) DAYS OF THE DATE OF THE CLEAN UP ORDER.

TO: Chief Administrative Officer
Town of Peace River
P.O. Box 6600, 9911-100 Street
Peace River, Alberta T8S 1S4

Date: _____

I/We are appealing the Clean Up Order dated _____,
(insert date of Clean Up Order)

regarding _____.
(insert address of property to which Clean Up Order relates)

Please give reasons for the appeal (use separate sheet if necessary):

THIS APPEAL MUST BE ACCOMPANIED BY A FEE OF \$200.00 THAT WILL BE RETURNED ONLY IN THE EVENT THAT THE UNSIGHTLY PREMISES APPEAL BOARD REVOKES THE WHOLE OF THE CLEAN UP ORDER.

Signature

Name Printed

On Behalf Of: _____

Address for correspondence: _____

Contact telephone number(s): _____

NOTE: Only appeals, with the accompanying fee, received by the chief administrative officer within fourteen (14) days of the date of the clean up order will be heard by the Unsightly Premises Appeal Board. You will be notified in writing of the date of the hearing.