

Bylaw No.562-15

A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES

The Municipal Government Act, R.S.A. 2000, Chapter c.M-26, as amended grants a municipality the authority to pass an Unsightly Premises Bylaw;

THEREFORE, the Council of the Village of Hines Creek, in the Province of Alberta in open meeting assembled, hereby enacts as follows:

BYLAW TITLE

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

DEFINITIONS

2. For the purposes of this Bylaw the following words will have the meanings assigned:

Act: the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended

Authorized Staff: the Chief Administrative Officer, the Bylaw Control Officer

Village: the Municipal Corporation of the Village of Hines Creek

Village Manager: the Chief Administrative Officer of the Village, as appointed pursuant to the Municipal Government Act.

Council: the Council of the Village of Hines Creek

Highway: any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and

(a) includes

(i) a sidewalk (including the boulevard portion of the sidewalk),

(ii) if a ditch lies adjacent to and parallel with the roadway, the ditch, and

(iii) if a highway right of way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,

but

(b) does not include a place declared by the Lieutenant Governor in Council not to be a highway.

Peace Officer: means a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or Special Constable appointed pursuant to the provisions of Section 38 of The Police Act, 1980, Chapter P-12, Revised Statutes of Alberta 1980.

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.

Unsightly Property: property described in Section 3 of this Bylaw.

LW

Bylaw No.562-15

A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES

UNSIGHTLY PROPERTY

3. Unsightly Property means a parcel of land, a structure on the parcel, or any part of the parcel or structure, which exhibits one or more of the following characteristics:
- (a) the accumulation of building material on a parcel of land unless:
 - (i) the owner or occupier of the parcel is in possession of a valid building permit in respect of the accumulation; or
 - (ii) the accumulation is stored in a closed building or structure such that the accumulation is not visible from another parcel or highway.
 - (b) the storage or accumulation on a parcel of land, other than a parcel districted for such uses under the applicable Land Use Bylaw of the Village, of all or part of a vehicle, as defined in the *Motor Vehicle Administration Act* which is not:
 - (i) validly registered and licensed in accordance with the *Motor Vehicle Administration Act*; or
 - (ii) capable of movement under its own powerunless stored in a closed building or structure such that the vehicle, or any portion of a vehicle, is not visible from another parcel or a highway;
 - (c) the accumulation on a parcel of land of discarded materials or rubbish of any kind, whether or not for commercial purposes or as part of a trade or calling, including but not limited to dead animals, paper products, crockery, glass, metal, plastics, plastic containers, wire, ropes, machinery, tires, appliances, and any other scrap or salvage;
 - (d) the accumulation or deposit on a parcel of land of discarded or fallen building materials, including the surface, covering, or coating of a building or structure, or the building or structure itself or part of it which is missing a portion of its surface, covering, or coating materials;
 - (e) the use of any parcel of land for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment including bulldozers, graders, backhoes, or other similar heavy construction equipment, other than a parcel districted for such uses under the applicable Land Use Bylaw of the Village;
 - (f) the lack of general maintenance and upkeep of any structure on a parcel of land as evidenced by:
 - (i) deterioration of the external surfaces of the structure including fading, chipping or peeling of painted areas, or
 - (ii) broken or missing windows, siding, shingles, shutters, eaves, or other building components;
 - (g) the presence of graffiti, whether in the form of pictures or words, on real property or on the surface of a structure located on real property;
 - (h) the presence of uncut grass or weeds exceeding 10 cm in height;

CAW

Bylaw No.562-15

A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES

- (i) the accumulation of garbage not contained in a covered receptacle on a parcel of land.
- (j) No person shall place, deposit or throw upon any town property any materials or rubbish of any kind which make the property unsightly.

DIRECTION

- 4. If a Peace Officer determines, in accordance with Section 3 of this Bylaw, that a parcel of land is an Unsightly Property the Peace Officer may issue a written Direction to the owner or occupier of the property. The Direction shall:
 - (a) direct the owner or occupier of the Unsightly Property to improve the appearance of the Unsightly Property in the manner specified;
 - (b) state a time within which the owner or occupier must comply with the Direction;
 - (c) state that if the owner or occupier does not comply with the Direction within a specified time, the owner or occupier will be liable for penalties in accordance with Section 23.

ORDER

- 5. If Authorized Staff determines, in accordance with Section 3 of this Bylaw, that a parcel of land or a structure on the parcel is an Unsightly Property, and because of its unsightly condition the Unsightly Property is detrimental to the surrounding area, the Authorized Staff may by written Order require the owner of the Unsightly Property to:
 - a) improve the appearance of the parcel or the structure in the manner specified, or
 - b) remove or demolish the structure and level the site.
- 6. The Order may
 - (a) state a time within which the owner must comply with the Order;
 - (b) state that if the owner does not comply with the Order within a specified time, the municipality may take the action or measure at the expense of the owner and the total be added to the tax roll of the parcel of land affected by the Order.
- 7. The Village may, in respect of an Order made under Section 5, register a caveat under the *Land Titles Act* against the certificate of title for the land that is the subject of the Order.

REVIEW OF AN ORDER

- 8. An owner who receives a written Order issued under Section 5 of this Bylaw may, by written notice given to the Village Clerk within 14 days after the date the Order is received, request Council to review the Order.
- 9. After reviewing the Order, the Council may confirm, vary, substitute or cancel the Order.

hw

Bylaw No.562-15

A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES

APPEAL TO THE COURTS

10. An owner affected by the decision of a Council under Section 9 of this Bylaw may appeal to the Court of Queen's Bench if:
 - a) the procedure required to be followed by this Bylaw or the Act is not followed, or
 - b) the decision is patently unreasonable.
11. The appeal must be made, within 15 days after the date Council's decision is served on the person affected by the decision.
12. The application for the appeal must state the reasons for the appeal.
13. The Court may:
 - (a) confirm the decision, or
 - (b) declare the decision invalid and send the matter back to the Council with directions.

RIGHT TO REMEDY

14. The Village may take whatever actions or measures are necessary to deal with the Unightly Property if:
 - a) the Village has issued a written Order under Section 5 of this Bylaw;
 - b) the Order contains a statement referred to in Section 6(b) of this Bylaw;
 - c) the owner to whom the Order is directed has not complied with the Order within the time specified in the Order, and
 - d) the appeal periods respecting the Order have passed or, if an appeal has been made, the appeal has been decided and it allows the Village to take the action or measures.
15. If a structure is being removed or demolished by the Village, the Village may use reasonable force to remove the occupants.
16. The expenses and costs of an action or measure taken by the Village under Section 14 are an amount owing to the Village by the owner who was required to do something by the Order.
17. The amount owing to the Village under Section 16 may be added to the tax roll of the parcel of land affected by the Order.
18. If the Village sells all or a part of a structure that has been removed under an Order, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.

INSPECTION

19. A Peace Officer or Authorized Staff may, after giving 24 hours notice to the owner or occupier of a parcel of land, enter on the parcel or enter a structure on the parcel for the purpose of determining whether:

Bylaw No.562-15

A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES

- a) the parcel or structure is an Unsightly Property under this Bylaw;
 - b) the parcel or structure, because of its unsightly condition is detrimental to the surrounding area;
 - c) there has been compliance with a Direction issued under Section 4 of this Bylaw, or
 - d) there has been compliance with an Order issued under Section 5 of this Bylaw.
20. The Peace Officer or Authorized Staff must display or produce, on request, identification showing that they are authorized to make the entry.

OFFENCE

21. Every owner or occupier who fails to comply with:
- a) a Direction issued under Section 4 of this Bylaw, or
 - b) an Order issued under Section 5 of this Bylaw,
- within the time specified, is guilty of an offence and is liable to the penalties imposed under this Bylaw.
22. Each day that a violation continues to exist may be deemed to be a separate offence against this Bylaw.

PENALTIES

23. If a Peace Officer believes that an offence has been committed under this Bylaw, a summons under Part 2 of the *Provincial Offences Procedures Act*, R.S.A. 2000, P-34 as amended, may be issued by means of a Violation Ticket in respect of an alleged contravention, and the specified penalty payable upon conviction in a court of competent jurisdiction shall be:
- a) \$1,000.00 for a first offence;
 - b) \$2,000.00 for a second offence.

ENFORCEMENT

24. The Village is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw the Village may take into account any practical concerns regarding enforcement including the funds available under the municipal budget and available personnel resources.

SEVERABILITY

If at any time any provision of this Bylaw is declared or held to be illegal, invalid or ultra vires, in whole or in part, then that provision shall not apply and the remainder of this Bylaw shall continue in full force and effect and shall be construed as if it had been enacted without the illegal, invalid or ultra vires provision.

REPEAL

Bylaws #528 and #540-10 are hereby repealed.

LW

Bylaw No.562-15

**A BY-LAW OF THE VILLAGE OF HINES CREEK, IN THE PROVINCE OF
ALBERTA TO PROVIDE FOR THE PREVENTION, ABATEMENT AND
REGULATION OF NUISANCES AND UNSIGHTLY OR UNTIDY PREMISES**


ENACTMENT

This Bylaw shall come into force and effect upon third reading and is duly signed.

READ A FIRST TIME IN COUNCIL THIS 28th Day of April, 2015.

READ A SECOND TIME IN COUNCIL THIS 28th Day of April, 2015.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS 26th Day of May 2015.

 Leanne Walmsley
Leanne Walmsley, Acting CAO

 Hazel Reintjes
Hazel Reintjes, Mayor