

Dangerous and Unsightly Property – Bylaw 1169

A BYLAW OF THE TOWN OF MAGRATH, IN THE PROVINCE OF ALBERTA TO PROMOTE THE MAINTENANCE OF PROPERTY AND PROVIDE FOR THE REMEDY OF DANGEROUS AND UNSIGHTLY PROPERTY WITHIN THE TOWN OF MAGRATH.

WHEREAS the *Municipal Government Act*, c.M-26.1, of the Revised Statues of Alberta 2000, authorizes municipalities to deal with nuisances, including Dangerous and Unsightly Property within the Town of Magrath.

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

1. **NAME OF BYLAW**

1.1. This bylaw may be cited as the *Dangerous and Unsightly Property Bylaw*.

2. **DEFINITIONS**

2.1. For the purposes of this Bylaw, the following words mean:

2.1.1. **Act** means the *Municipal Government Act*, S.A. 1994, c.M-26.1, as amended.

2.1.2. **Administrator** means the Chief Administrative Officer of the Town of Magrath.

2.1.3. **Council** means the Municipal Council of the Town of Magrath.

2.1.4. **Designated Officer** means the Chief Administrative Officer, Bylaw Enforcement Officer, RCMP Officer, Peace Officer, and or Fire Chief of the Town of Magrath or his duly authorized assistants.

2.1.5. **Dangerous and Unsightly Property** means property as described in section 3 of this Bylaw.

2.1.6. **Emergency** means a situation in which there is imminent danger to public safety or of serious harm to property.

2.1.7. **Improvement** means a structure, anything attached or secured to a structure, which would be transferred without special mention by a transfer or sale of the structure, a mobile unit, and machinery and equipment.

2.1.8. **Length of Grass and/or Weeds** means any property as described in clause 3.2.1 of this Bylaw.

2.1.9. **Order** means a written order in accordance with subsection 546 of the Act.

2.1.10. **Owner** means in respect of land, the person who is registered under the Land Titles Act as the owner of the fee simple estate in the land, and in respect of property other than land, the person in lawful possession of it.

- 2.1.11. **Property** means a parcel of land, improvement, or a parcel of land and the improvements to it.
- 2.1.12. **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 land.
- 2.1.13. **Town** means the Municipal Corporation of the Town of Magrath.
- 2.1.14. **Zones** mean areas within the corporate limits of the Town of Magrath that have different requirements under the provisions of this Bylaw. (Appendix B)

3. DANGEROUS AND UNSIGHTLY PROPERTY

- 3.1. Dangerous and Unsightly Property is property that, in the opinion of a Designated Officer, is detrimental to the surrounding area because of its unsightly and/or dangerous condition.
- 3.2. Some factors that may be considered by a Designated Officer in determining whether property is dangerous and/or unsightly include but are not limited to the following:
- 3.2.1. The presence of uncut grass or weeds on property that is longer than 20cm within Land Use District Residential R-1.
- 3.2.2. The presence of trees, shrubs or other vegetation in such a manner that they interfere with the use of or obstruct visibility of street signage, sidewalks, roadway clearance, municipal works or public utilities,
- 3.2.3. The presence of wrecked or dismantled vehicles, including vehicles that are inoperable and unregistered, unless they are enclosed in a structure or in a back yard out of public view. A maximum of 2 inoperable and/or unregistered vehicles may be on the property.
- 3.2.4. The storage or accumulation of garbage, litter, refuse (including but not limited to building materials, tires, boxes, scrap material), equipment, dilapidated furniture or appliances, machinery, machinery parts or other similar materials or items,
- 3.2.5. Specific or general lack of repair or maintenance including but not limited to:
- 3.2.5.1. Significant deterioration of improvements or portions of improvements;
- 3.2.5.2. Broken or missing windows, siding, shingles, shutters, eaves or other building materials; or
- 3.2.5.3. Significant fading, chipping or peeling of painted areas of improvements,
- 3.2.6. The location, zoning, use and visibility of property.
- 3.2.7. any property, improvement, structure, excavation or hole, which is dangerous to public safety or that because of its condition constitutes a fire hazard.
- 3.2.8. Property not in keeping with the surrounding properties within a one-block radius, of the same

4. GENERAL PROHIBITION

4.1. No Person being the owner of any property or structure within the Town shall permit one's property or structure to be or remain in a dangerous or unsightly condition.

5. INSPECTION

5.1. A Designated Officer of the Town, after giving reasonable written notice to the owner or occupier of land, improvement or structure, may enter into any property, improvement or structure within the Town to inspect for conditions that may constitute a dangerous and or unsightly property, contravene, or fail to comply with the provisions of this Bylaw.

6. ORDER BY DESIGNATED OFFICER

6.1. If, in the opinion of a Designated Officer, any property, improvement, structure, excavation or hole is dangerous to public safety or property because of its unsightly condition, is detrimental to the surrounding area, the Designated Officer may by written Order:

6.1.1. require the owner of the structure to eliminate the danger to public safety in a manner specified, or remove or demolish the structure and level the site;

6.1.2. require the owner of the land that contains the excavation or hole to eliminate the danger to public safety in the manner specified, or fill in the excavation or hole and level the site;

6.1.3. require the owner of the property that is in an unsightly condition to improve the appearance of the property in the manner specified, or if the property is a structure, remove or demolish the structure and level the site.

7. WRITTEN ORDER

7.1. An Order to remedy dangerous or unsightly property,

7.1.1. Shall be in writing, and shall be served on: the person which has allowed a dangerous or unsightly condition, the registered owner of the property, and a copy of the notice shall be retained at the Town Office.

7.1.2. an Order given by the Designated Officer pursuant to any of the provisions of this Bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:

7.1.2.1. on the Order being personally delivered to the person to whom it is addressed

7.1.2.2. on leaving the Order with a person apparently over the age of eighteen (18) years at the place of abode of the person to whom the notice is addressed

7.1.2.3. on sending the Order by registered mail with Post Office Confirmation of Delivery, addressed to the last known postal address, or address shown on the assessment roll, as

the case may be;

7.1.3. the Order may state a time within which the person must comply with the Order,

7.1.4. state the fine for not complying with the Order within the specified time, and

7.1.5. state that if the person does not comply with the order within a specified time, the Town will take the action or measure at the expense of the owner.

8. NONCOMPLIANCE WITH AN ORDER

8.1. Any person that does not comply with a written order pursuant to this bylaw shall be guilty of an offence and shall be fined as outlined in **Appendix A**, which is attached to and forms a part of this bylaw.

8.2. The Designated Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act of the Revised Statutes of Alberta 2000, being Chapter 34 and amendments thereto.

9. COUNCIL REVIEW OF ORDER

9.1. The owner or person who receives a written order pursuant to this bylaw may request Council to review that order by written notice.

9.1.1. The owner or person who receives an Order pursuant to this bylaw must provide the Administrator with a written request for Council to review the Order.

9.1.2. The written request for a review of an Order issued pursuant to this bylaw must be received by the Administrator within 14 days of receipt of the Order.

9.1.3. The owner or person who receives an Order pursuant to this bylaw may appear before Council in person or by a representative.

9.1.4. After reviewing the Order, the Council may confirm, vary, substitute or cancel the Order.

10. NOTICE OF DECISION OF COUNCIL REVIEW

10.1. Notice of Decision of the Council Review shall be served on the person who requested the review.

10.2. Notice of Decision of the Council Review pursuant to any of the provisions of this bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:

10.2.1. on the Notice of Decision being personally delivered to the person to whom it is addressed

10.2.2. on leaving the Notice of Decision with a person apparently over the age of eighteen (18) years at the place of abode of the person to whom the notice is addressed

10.2.3. on sending the Notice of Decision, by registered mail with Post Office Confirmation of Delivery,

addressed to the last known postal address, or shown on the assessment roll; or
10.3. The Notice of Decision of the Council Review may state a date by which the person must remedy the dangerous or unsightly property; this date shall not be less than 15 days from the date the Notice of Decision of Council Review is received by the owner.

11. APPEAL OF COUNCIL REVIEW

11.1. An owner or person affected by the decision of a Council Review of an order pursuant to this bylaw may appeal to the Court of Queen's Bench. This appeal must be made within 15 days of the date the decision of the Council review is served on the person, pursuant to section 548 (1.1) (b) of the Act.

12. REMEDYING UNSIGHTLY PROPERTY

12.1. If the dangerous and or unsightly property has not been remedied by the date required in the Notice of Decision of the Council review, and appeal periods respecting the Order and Notice of Decision of Council Review, the Town may take whatever actions or measures that are necessary to eliminate the danger to public safety caused by a structure, improvement, excavation or hole or to deal with the unsightly condition of property.

12.2. If a structure is being removed or demolished by the Town, under this bylaw, the Town may use reasonable force to remove occupants.

13. EMERGENCIES

13.1. Despite any provisions of this Bylaw, in an emergency, the Town may take whatever actions or measures necessary to eliminate the emergency.

14. RECOVERY OF COSTS

14.1. The expenses and cost incurred by the Town to remedy the dangerous or unsightly property become the responsibility of the owner. All unpaid amounts as of December 31st of the year the order is given shall be placed on the tax roll of the property on which the remedial action was taken.

15. REPEAL OF FORMER BYLAW

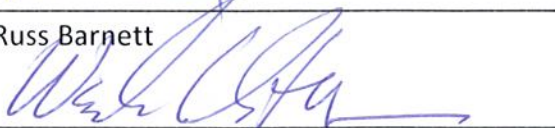
15.1. Bylaw #1057 is hereby repealed.

Read a first time this 12 day of June 2012

Read a second time this 10 day of July 2012

Read a third time this 10 day of July 2012


Mayor – Russ Barnett


Chief Administrative Officer – Wade Alston

APPENDIX A

Any person that does not comply with a written notice pursuant this bylaw shall be guilty of an offence and shall be fined as outlined below:

- for the first offence, to a fine of five hundred (\$ 500.00) dollars and costs.
- for the second and subsequent offence, to a fine of seven hundred and fifty (\$ 750.00) dollars and costs.

ORDER TO REMEDY DANGEROUS AND/OR UNSIGHTLY PROPERTY

(DATE)

(OWNERS NAME)

(OWNER'S ADDRESS & LEGAL DESCRIPTION)

RE: Bylaw 1169, Dangerous and Unsightly Property

Dear (OWNER'S NAME),

Please be advised that a designated officer of the Town of Magrath has determined that your property is detrimental to the surrounding area because of its dangerous and/or unsightly condition. You are directed to:

If you do not remedy the nuisance as directed before (DATE) you will be fined \$500.00 for a first offence and \$750.00 for subsequent offences and the Town may do the work set out above and charge you for the cost of the work. If not paid, the cost to remedy may be collected in the same manner as property taxes.

Town of Magrath

Per:

(DESIGNATED OFFICER'S NAME)

Bylaw Enforcement Officer

cc: (OCCUPANT, IF OTHER THAN OWNER)

APPEAL NOTICE

If you want to appeal the Order to Remedy Dangerous and Unsightly Property, you must serve this Appeal Notice, requesting a Council Review, by mailing or delivering it to the Chief Administrative Officer within 14 days after the Order was served on you.

Dated: _____

To: The Town of Magrath Chief Administrative Officer (at the address below)

I am appealing the Order to Remedy Dangerous and Unsightly Property, served on me, _____ (date)

The reasons for my appeal: (Use a separate sheet if necessary)

(Signature)

(Print Name)

(Street Address of Property on Order)

(Your Address (if different than above) and Post Office Box Number)

(Home Phone)

(Cell or Work Phone)

NOTE: Town Council will only review Appeals filed within the 14 Day Period. You will be notified by mail of the date of the Review Hearing.