

TOWN OF WEMBLEY
BY-LAW NO. 695

A By-law of the Town of Wembley, in the Province of Alberta, to regulate unsightly premises.

WHEREAS under Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 Council may pass bylaws regulating unsightly premises;

AND WHEREAS unsightly premises are a detriment to surrounding properties and the immediate neighborhood generally;

AND WHEREAS Council deems it advisable to pass a bylaw to regulate unsightly premises;

AND WHEREAS the purpose of this Bylaw is to prevent the existence and proliferation of unsightly premises and to provide a mechanism for the remediation of a property which has become an unsightly premises;

NOW THEREFORE, THE COUNCIL OF THE TOWN OF WEMBLEY ENACTS AS FOLLOWS:

1. This Bylaw shall be cited as the Unsightly Premises Bylaw.
2. In this Bylaw, unless the context otherwise requires, the term:
 - a) “Animal material” means any animal excrement and includes all material accumulated on a premises from pet pens and yards;
 - b) “Ashes” means the powdery residue accumulated on a premises left after the combustion of any substance and includes any partially burnt wood, charcoal or coal;
 - c) “Board” means the Unsightly Premises Appeal Board.
 - d) “Boulevard” means that portion of a street which lies between the roadway and property line of the land abutting the street or alley;
 - e) “Building material” means all construction and demolition material accumulated on a premises 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;
 - f) “Council” means the Council of the Town of Wembley;
 - g) “Town Administrator” means the person designated by Council as its Chief Administrative Officer or his/her designate;
 - h) “Town” means the municipal corporation of the Town of Wembley or the area contained within the Town boundaries as the context requires;
 - i) “Clean Up Order” means an Order issued under this bylaw by the Town Administrator with respect to an unsightly premises within the Town;
 - j) “Garbage” means material composed of organic matter which is or may become decomposed, including the by-products from the preparation, consumption or storage of food;
 - k) “Owner” means:

- i) a person who is registered under the Land Titles Act as the owner of the land;
 - ii) the person who is recorded as the owner of the property on the assessment roll of the Town;
 - iii) a person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not become the registered owner thereof;
 - iv) a person holding himself out as the person having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership;
 - v) a person controlling the property under construction, or;
 - vi) a person who is the occupant of the property under a lease, license or permit;
- l) “Peace Officer” means a member of the Royal Canadian Mounted Police, a Peace Officer appointed pursuant to the Alberta Peace Officer Act, or a Bylaw Enforcement Officer appointed by the Town of Wembley.
- m) “Premises” means the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building or buildings, situated in whole or in part in the Town and includes any land or buildings owned or leased by the Town,
- n) “Right of access” means the right of the Town Administrator or Enforcement Officer to enter onto a property to inspect the property to determine whether to issue a Clean Up Order, or to allow work forces access to the property for the purposes of enforcing a Clean Up Order;
- o) “Unightly premises” means any property or part of it including any boulevard which abuts flanks or adjoins such property which is characterized by visual evidence of a lack of general maintenance and upkeep by the excessive accumulation on the premises of:
- i) any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement or sewage or the whole or a part of an animal carcass, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken household dishes and utensils, boxes, cartons, discarded fabrics, overgrown grasses, overgrown weeds or other vegetation;
 - ii) the whole or part of any motor vehicle or vehicles:
 - A) which has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year, and
 - B) which is inoperative by reason of removed parts, or equipment;
 - iii) equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition and includes any household appliances;

- iv) animal, material, yard material, ashes, building material and garbage as defined in this Bylaw;
 - v) building structure or erection of any kind whatsoever (i.e. loose siding, loose shingles, broken windows or unsightly fences), or any exaction, depression, drain or ditch, watercourse, pond, surface water or other matter or thing to remain a nuisance and/or dangerous to the public safety or health;
 - p) “Unsightly Premises Appeal Board” means the Council of the Town of Wembley;
 - q) “Weeds” means any plants designated as restricted, noxious or nuisance weeds in accordance to The Weed Control Act, being a Statute of Alberta.
 - r) “Work forces” means Town employees or contract workers engaged by the Town for the purposes of enforcing a Clean Up Order;
 - s) “Yard material” means organic matter formed as a result of gardening or horticultural pursuits and includes grass, tree and hedge cuttings and clippings.
3. No owner of a premises shall allow his or her premises to become an unsightly premises as defined in this Bylaw.
 4. In determining whether a premises is an unsightly premises as defined in this Bylaw the Town Administrator shall have regard to the use and location of the property. (ie. residential, commercial, industrial, acreage, or farm)
 5. If the Town Administrator has reason to believe that any property is an unsightly premises he/she may exercise a right of access to the property in order to inspect the premises to determine whether the property contravenes the provisions of this Bylaw.
 6.
 - (1) If the Town Administrator considers any property to be an unsightly premises, Town Administrator may issue a Clean Up Order.
 - (2) Each Order:
 - a) shall describe the property by
 - i) name, if any, and
 - ii) the municipal address or legal description
 - b) shall state that the property contravenes the provisions of this Bylaw.
 - c) shall give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made.
 - d) shall state the time within which the clean up, removal, clearing or other actions are to be done.
 - e) shall state that if the required actions are not done within the time specified, the Town may carry out the actions required and charge the cost thereof against the person to whom the Order is directed and if such person does not pay the costs, the costs shall be charged against the property concerned as taxes due and owing in respect of that property, and recovered as such.

- f) shall state that an appeal lies from the issuance of this Order to the Unsightly Premises Appeal Board if an appeal is lodged in writing with the Town Administrator within fourteen (14) days.

7.

- (1) A copy of the Order shall be served upon the owner of the property and may be served on any person shown by the records of the Land Titles Office to have an interest in the property.
- (2) An Order referred to in subsection (1) may be served on the owner
 - a) by being delivered personally to the person who is intended to be served,
 - b) by being left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served, or
 - c) by being sent by double registered mail or certified mail to the last known address of the person who is intended to be served as shown on the assessment roll of the Town and the Order shall be deemed to be served upon the expiry of three (3) days after the mailing of the Order.
- (3) If, in the opinion of the Town Administrator, service under subsection (2) cannot reasonably be effected, the Town Administrator may post the Clean Up Order or a copy of the Order in a conspicuous place on the land or property to which the Order relates, or on the private dwelling place of the person who is intended to be served and such Order is deemed to be served upon the expiry of three (3) days after such Clean Up Order is posted.

8. The Clean Up Order may require the person to whom it is addressed, within a period of time which shall not be more than thirty (30) days from the date of the making of the Order, but not less than fourteen (14) days

- a) to remedy the condition of the property in a manner and to the extent directed in the Order,
- b) to remove any material causing or contributing to the unsightliness of the property,
- c) to place in waste receptacles any material causing or contributing to the unsightliness of the property, or
- d) to do all or any of the matters specified in Clauses (a) to (c).

9. The Town Administrator may extend the time for doing anything which is required to be done by the terms of the Order.

10.

- (1) Where a Clean Up Order is issued pursuant to Section 6 such Clean Up Order may be appealed within fourteen (14) days to the Unsightly Premises Appeal Board.
- (2) Where a Clean Up Order is appealed pursuant to subsection (1) the Order is stayed pending a final decision on the merits of the appeal by the Board.

11.

- (1) The Board that hears an appeal may confirm, vary, or revoke the Clean Up Order or may substitute its decision in place of the Clean Up Order which was issued.
 - (2) The Board may extend the time within which anything required to be done by the Clean Up Order is to be performed.
 - (3) The Board may direct anything to be done that an Enforcement Officer can direct to be done either in addition to or in substitution for the direction in the Order appealed from.
12.
 - (1) Appellants must submit notice of their appeal in writing to the Town Administrator within fourteen (14) days of the date of the issuance of the Clean Up Order.
 - (2) Each Notice of Appeal shall:
 - a) state with reasonable exactness the grounds of appeal;
 - b) state the name, address, and interest of the appellant in the property; and
 - c) be dated, and signed by the appellant or on his behalf by his agent and, if signed by an agent, shall state the name and address of the agent.
13. The Board shall be composed of the members of Council of the Town of Wembley.
14. The Town Administrator shall, upon receipt of the Notice of Appeal, set a date for the hearing of the appeal which shall be held within thirty (30) days of the receipt of the Town Administrator of the Notice of Appeal.
15. Any four members of the Board shall constitute a quorum and as such shall have jurisdiction to hear appeals before the Board.
16. The Board shall adopt the rules of procedure for hearing appeals presently in use by the Subdivision and Development Appeal Board.
17. The Board shall consider each appeal having regard to the circumstances and merits of the case and the applicable provisions of this Bylaw.
18. When hearing an appeal the Board:
 - a) shall not be bound by the technical rules of evidence; and
 - b) shall afford to every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.
19. The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer or the requirements or directions set out in any decision of the Unsightly Premises Appeal Board.
20.
 - (1) If a person to whom an Order is directed under this Bylaw fails to carry out the Order within the time stated in such Order, in the case of an Order that is not appealed, or within the time limited by the Board in the case of an Order that is appealed, an Town Administrator may exercise a right of access to the unsightly premises and may, with whatever work forces as are necessary, enter the premises against which the Order has been issued and carry out the Order.

- (2) The Town or persons appointed by it may remove any fencing or other obstructions in carrying out the Order and shall replace or repair any fencing or other obstructions removed or damaged in the course of carrying out the Order.
 - (3) The expenses incurred by the Town in carrying out an Order under this section constitutes a debt owing to the Town from the person to whom the Order is directed.
 - (4) Within thirty (30) days of ascertaining the amount of the expenses incurred by the Town in carrying out the Order, Town Administrator shall send a demand for payment of these expenses to the person to whom the Order was directed.
 - (5) Where the Town carries out an Order under this section and the person to whom the Order is directed fails, within thirty (30) days after a demand for payment, to pay the expenses incurred by the Town Administrator may transmit to the tax clerk of the Town a statement setting out
 - (a) the amount of the expenses,
 - (b) the name of the assessed owner of the land to which the Order relates, and
 - (c) the location of the land to which the Order relates.
 - (6) On receipt of a statement under subsection (5), the tax clerk shall place the amount of the expenses incurred in carrying out the Order on the tax roll as an additional tax against the land concerned and that amount
 - (a) forms a lien on the land in favour of the Town, and
 - (b) shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the Municipal Government Act from the date the expenses were incurred, and that Act apply to the enforcement, collection and recovery of the amount.
 - (7) Where the Town carries out an Order under this Section the work forces shall deposit any material removed from an unsightly premises at a location designated by the Town Administrator.
 - (8) Notwithstanding subsection (7) where the Town Administrator is of the opinion that the material removed under subsection (7) has no value he may direct that the material be disposed of.
 - (9) When material removed from an unsightly premises under subsection (7) is removed to a location specified by the Town Administrator, the Town Administrator may direct that the property be disposed of if the person to whom an Order has been issued does not remove the property within fourteen (14) days of being requested in writing to do so by the Town Administrator.
21. A person who contravenes Section 3 is guilty of an offence and liable
 - a) for a first offence, to a fine of TWO HUNDRED AND FIFTY DOLLARS (\$250.00) and in default of payment to imprisonment for a term of not more than five (5) days,

- b) for a second offence, to a fine of FIVE HUNDRED DOLLARS (\$500.00) and in default of payment to imprisonment for a term of not more than twenty (20) days, and
 - c) for a third offence, to a fine of ONE THOUSAND DOLLARS (\$1,000.00) and in default of payment to imprisonment for a term of not more than thirty (30) days, and
 - d) for a fourth or subsequent offence to a fine of a maximum amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2, 500.00) or for a term of imprisonment not exceeding six (6) months.
22. A person who contravenes Section 19 is guilty of an offence and liable
- a) for a first offence, to a fine of ONE THOUSAND DOLLARS (\$1,000.00) and in default of payment to imprisonment for a term of not more than fifteen (15) days,
 - b) for a second offence, to a fine of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) and in default of payment to imprisonment for a term of not more than thirty (30) days,
 - c) for a third offence, to a fine of TWO THOUSAND DOLLARS (\$2,000.00) and in default of payment to imprisonment for a term of not more than ninety (90) days, and
 - d) for a fourth or subsequent offence to a fine of a maximum amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) or for a term of imprisonment not exceeding six (6) months.
23. This Bylaw shall come into force and effect upon receiving third reading.
24. Bylaw No. 643 is hereby rescinded effective August 22, 2016.

**READ A FIRST, SECOND AND BY UNANIMOUS CONSENT OF ALL
COUNCILLORS PRESENT, A THIRD AND FINAL TIME AND FINALLY PASSED
THIS 22 DAY OF AUGUST, A.D. 2016**

Mayor – Chris Turnmire

CAO – Lori Parker