

**ALBERTA BEACH
BYLAW #286-21**

Municipal Government Act RSA 2000 ChapterM-26
Part 2, Sections 7-8
Part 13, Sections 545-546

**A BYLAW OF ALBERTA BEACH IN THE PROVINCE OF ALBERTA TO REGULATE UNSIGHTLY
AND UNTIDY PROPERTY.**

WHEREAS the *Municipal Government Act* provides that a Council may pass bylaws respecting unsightly and untidy property;

AND WHEREAS the Municipal Council of Alberta Beach deems it appropriate and in the community interest to require that property within Alberta Beach is maintained in such a manner that it is not unsightly or untidy and so that it does not interfere with the use or enjoyment of adjacent properties;

NOW THEREFORE the Municipal Council of Alberta Beach, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. TITLE

1.1. This Bylaw may be cited as the "Unsightly and Untidy Property Bylaw".

2. INTERPRETATION

2.1. In this Bylaw, the following terms shall have the following meanings:

- a) "Alberta Beach" and "Municipality" means the municipal corporation of Alberta Beach;
- b) "Bylaw" means this Unsightly and Untidy Property Bylaw;
- c) "CAO" means the chief administrative officer for Alberta Beach;
- d) "Council" means the municipal council of Alberta Beach;
- e) "Designated Officer" means any person authorized by an Alberta Beach bylaw to exercise any of the powers, duties and functions of a Designated Officer under sections 542, 545, 546 or 645 of the *Municipal Government Act*;
- f) "Development Permit" has the meaning in the Land Use Bylaw of Alberta Beach, Bylaw No. 252-17, as amended;
- g) "Highway" has the same meaning as defined in the *Traffic Safety Act*, RSA 2000, c T-6;
- h) "Junked Vehicle" shall mean a vehicle that, subject to the time limits contained in section 3.2, is in a wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition, or is determined to be not roadworthy, and is not located in a building or located on the property such that it can be concealed from view or is not located in a building and does not form part of a business enterprise lawfully being operated on that Property.
- i) "*Municipal Government Act*" or the "Act" means the *Municipal Government Act*, RSA 2000, c M-26 and the regulations thereunder;
- j) "Municipal Tag" means a tag or similar document issued by Alberta Beach pursuant to the *Municipal Government Act*, for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow;
- k) "Owner" means a Person:
 - (1) who is registered under the *Land Titles Act* as the owner of the Property;
 - (2) who is recorded as the Owner of the Property on the tax assessment roll of the Municipality;
 - (3) who has purchased or otherwise acquired the Property, whether purchased or otherwise acquired directly from the Owner or from another purchaser, and who has not yet become the registered Owner thereof;
 - (4) holding themselves out as the Person having the powers and authority of ownership of the Property, or who for the time being exercises the powers and authority of ownership;
 - (5) who is in possession or control of a Property under construction; or

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- (6) who is the occupant of the Property pursuant to a written or verbal rental or lease agreement, license or permit.
- l) "Noxious Weed" means a plant that is designated under the *Weed Control Act, SA 2008, c W-5.1* and the regulations thereunder and includes the seeds of a Noxious Weed;
- m) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Peace Officer appointed under the *Peace Officer Act*, or an Alberta Beach Bylaw Enforcement Officer;
- n) "Person" shall mean any individual, corporation, firm, partnership, association, society, or registered company;
- o) "Property" includes any lands, buildings or premises in Alberta Beach;
- p) "Refuse" shall mean junked articles including but not limited to solid wastes, including broken dishes, tins, glass, rags, clothing, paper, cardboard, food containers, grass cuttings, shrubbery and tree prunings, weeds and garden waste, abandoned vehicles, the whole or part of any machinery that is in a wrecked, discarded, or abandoned condition, tires, residential furnishings, household appliances, animal feces, the whole or part of an animal carcass, or garbage bags;
- q) "Remedial Order" shall mean an order written pursuant to Section 545 or Section 546 of the *Municipal Government Act*;
- r) "Untidy" or "Unsightly" Property shall mean:
- (1) A Property that, because of its condition or the accumulation of refuse, is detrimental to the use and enjoyment of the surrounding area or neighboring properties or that contributes to the devaluation of neighboring properties;
 - (2) In respect of a structure, a structure whose exterior shows signs of significant physical deterioration including loose, weathered or broken materials, exterior finishes left partially completed or with siding uninstalled, serious disregard for general maintenance, upkeep or repair, or that in the opinion of a designated officer, is dangerous to public safety;
 - (3) In respect of land, land that shows signs of a serious disregard for general maintenance or upkeep, or which lacks suitable ground cover which prevents erosion, or has grass, plants or vegetation which are not trimmed, or has fencing left incomplete or unfinished, or if in the opinion of a Designated Officer, is dangerous to public safety;
 - (4) Development activities which are visibly incomplete including without limitation the following:
 - (i) Where the development is incomplete beyond the time period identified in an approved Development Permit including, without limitation, where exterior finishes such as siding are not installed, where exteriors are left at the house wrap stage, or where fencing is not completed;
 - (ii) Where no Development Permit is required, where the development is incomplete within three (3) months of commencement; and
 - (iii) Where otherwise determined incomplete in the opinion of a Designated Officer.
- s) "Vehicle" has the same meaning as defined in the *Traffic Safety Act, RSA 2000, c T-6*; and
- t) "Violation Ticket" means a violation ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act, RSA 2000, c-P-34*.

2.2. Any references in this Bylaw to any statutes, regulations, bylaws or other enactments is to those statutes, regulations, bylaws or other enactments as amended or replaced from time to time and any amendments thereto.

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- 2.3. Whenever a singular or masculine form of a word is used in this Bylaw, it shall include the plural, feminine or neutral form of the word as the context requires.
- 2.4. The headings in this Bylaw do not form part of this Bylaw and shall not affect its interpretation.
- 3. DUTIES AND COMPLIANCE**
- 3.1. No Owner of Property within the Municipality shall cause, permit or allow the Owner's Property to be or remain in an Unsightly or Untidy condition.
- 3.2. Without limiting the generality of Section 3.1, no Owner shall cause, permit or allow:
- a) a Junked Vehicle to remain in any part of the yard of the Owner's Property in any residential district, for more than fourteen (14) successive days;
 - b) more than one unlicensed and/ or unregistered Vehicle on the Owner's Property at one time without prior written permission of the CAO or a Designated Officer;
 - c) refuse, metal appliances, tires, or animal carcasses to be on, or animal feces to accumulate on, the Owner's Property;
 - d) refuse, metal or wood to accumulate in any open structure attached to any building on the Owner's Property except in containers, bins, drawers, shelves and areas provided for temporary storage, and no such storage shall be allowed in the front or side yard of the Owner's Property in a residential district.
- 3.3. A Designated Officer may require an Owner of a Property to construct a fence, wall, screen, or similar structure to prevent the Untidy or Unsightly Property from being viewed from any Highway or public place.
- 3.4. It shall be in contravention of this Bylaw and an offence for an Owner of a Property within a residential district, to allow or condone any of the following acts:
- a) The accumulation or storage of any building materials, whether new, used or secondhand, on the Owner's Property where the Owner is not in possession of a valid Development Permit referring to such materials and lands or premises, unless the building materials are to be used for the maintenance or repair of a building as permitted by Bylaw No. 252-17, Land Use Bylaw, and only where all necessary safety measures are undertaken;
 - b) The accumulation or storage of any building materials in Section 3.4(a) above on the Owner's Property for projects which are left visibly incomplete beyond the initially permitted time period as identified in the approved Development Permit;
 - c) The accumulation or storage of any building materials in 3.4(a) above on the Owner's Property for any project which does not require a Development Permit for more than three (3) months after commencement of the project;
 - d) The accumulation of automobile parts or appliance parts or accessories in any part of a yard on the Owner's Property;
 - e) The parking of Vehicles on a front or side yard of the Owner's Property in any residential district except on a designated driveway created for that purpose;
 - f) To cause, permit or allow for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment including but not limited to bulldozers, graders, backhoes, pay loaders, cranes, tractors, semi-trailers, or similar heavy equipment on the Owner's Property;
 - g) To allow the grass, plants and vegetation to grow greater than fifteen (15) centimeters (six (6) inches) in height on the Owner's Property;
 - h) To permit the grass on the portion of the Highway that lies between the boundary of the Owner's Property and the centre of the Highway which abuts or flanks the Owner's Property to grow greater than fifteen (15) centimeters (six (6) inches) in height; and
 - i) To permit Noxious Weeds to grow on the Owner's Property.

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4. INSPECTIONS

- 4.1. Pursuant to Section 542 of the *Municipal Government Act* and for the purposes of ensuring compliance with this Bylaw and the Act, after giving reasonable notice, a Designated Officer is authorized to enter any lands, buildings or premises other than a dwelling house on a Property to inspect for conditions that contravene or fail to comply with the provisions of this Bylaw and the Act.

5. REMEDIAL ORDER

- 5.1. If a Designated Officer finds there is a contravention of this Bylaw or the Act, the Designated Officer may issue a Remedial Order to require the Owner to remedy the contravention.
- 5.2. Where an Owner does not comply with the directions in an Order, and the Municipality takes the actions or measures required by the Order, all of the costs incurred by the Municipality to bring the Property into compliance with the Order, as well as a further amount equal to the amount actually incurred by the Municipality to remedy the violation reflecting the Municipality's costs to administer, supervise and manage the remedying of the violation and the follow up to ensure that the violation has been remedied, will be billed to the Owner and, if not paid in the time specified by the Municipality, shall to be added to the tax roll as a charge against the lands of the Owner in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.
- 5.3. Every Remedial Order must:
- a) indicate the Owner to whom it is directed;
 - b) identify the Property to which the Remedial Order relates by municipal address or legal description;
 - c) identify the date that it is issued;
 - d) identify whether the Remedial Order is issued pursuant to section 545 or 546 of the *Municipal Government Act*;
 - e) identify how the Property fails to comply with this Bylaw or the Act;
 - f) direct an Owner to take any action or measures necessary to remedy the contravention of this Bylaw or the Act, including the removal or demolition of a structure that has been erected or placed in contravention of the Bylaw or the Act, and, if necessary, to prevent a re-occurrence of the contravention;
 - g) state a time within which the Owner must comply with the directions;
 - h) state that if the Owner does not comply with the directions within the specified time, the Municipality will take the action or measure at the expense of the person;
 - i) state that the expenses and costs of any action or measures taken by the Municipality under this section are an amount owing to the Municipality by the Owner;
 - j) state that the expenses and costs may be attached to the tax roll of the property if such costs are not paid by a specified time; and
 - k) state that an Owner who receives the Remedial Order may by written notice request council to review the order within the applicable time period specified by section 547 of the *Municipal Government Act*.
- 5.4. A Remedial Order issued may be in the form provided for in Schedule A to this Bylaw.
- 5.5. A Remedial Order may be served by any of the following methods:
- a) sending it by recorded mail to the address for service of the Owner of the Property, or any of them, as listed on the title at Land Titles for the Property, and service is effective on the third day following sending of the Notice by recorded mail, whether or not the Owner picks up the recorded mail; or
 - b) delivering it to the Owner of the Property, or any of them, as listed on the title at Land

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Titles for the Property, and service is effective on the day of such delivery; or

- c) if in the opinion of a person serving a Remedial Order, service of the Remedial Order cannot be reasonably effected, or if the person serving the Remedial Order believes that the Owner is evading service, the person serving the Remedial Order may post the Remedial Order to the door of a building or in any other conspicuous place on the Owner's Property, and service is effective on the expiry of 3 days after the Remedial Order is posted.

- 5.6. A Remedial Order served in accordance with paragraph 5.5 of this Bylaw is deemed to have been received by the Owner within the meaning of section 547(1) of the *Municipal Government Act* on the date that the service is deemed effective in accordance with paragraph 5.5 of this Bylaw.

6. RIGHT OF REVIEW

- 6.1. A person who receives a Remedial Order may by written notice request Council to review the order pursuant to section 547 of the *Municipal Government Act*.

- 6.2. A written notice requesting a review by Council shall:

- a) set out

- (1) The name, address and (if applicable) the email address of the Owner;
- (2) A copy of the order in respect of which the review is being sought;
- (3) The legal description of the Property affected; and
- (4) The grounds upon which the request for review is based;

- b) be accompanied by an administrative fee of:

- (1) \$100.00 if a residential property; or
- (2) \$200.00 if any other property;

- c) be delivered personally or sent by recorded mail to the Alberta Beach office within:

- (1) fourteen (14) days of the date that the Remedial Order was served on the Owner, in the case of a Remedial Order made under section 545 of the *Municipal Government Act*; or
- (2) Seven (7) days of the date that the Remedial Order was served on the Owner, in the case of a Remedial Order made under section 546 of the *Municipal Government Act*;

- 6.3. After reviewing the order, the council may confirm, vary, substitute or cancel the order, and may order that the administrative fee be refunded, in whole or in part.

- 6.4. Following the review by Council, the CAO or delegate shall inform the Owner of the Property of the decision made by Council by sending it to the Owner at the mailing address and/or email address provided pursuant to Section 6.2.a)(1).

7. OFFENCES AND PENALTIES

- 7.1. A Person who contravenes any provision of this Bylaw is guilty of an offence.

- 7.2. A Person who is guilty of an offence is liable to a fine in an amount not less than that established in this Section, and not exceeding \$10,000.00, and to imprisonment for not more than six months for non-payment of a fine.

- 7.3. Without restricting the generality of Subsection 7.2 the following fine amounts are established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered:

- a) \$250.00 for a first time offence; and
- b) \$500.00 for any subsequent offence.

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- 7.4. A Peace Officer may issue a Municipal Tag to any Person whom the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 7.5. A Municipal Tag shall be served:
- a) upon the Person personally;
 - b) by leaving a copy for the Person at the Person's usual place of residence with someone residing at that residence who has the appearance of being at least eighteen (18) years of age; or
 - c) in the case of a corporation or partnership, by serving the Municipal Tag personally upon the Manager, Corporate Secretary or other Officer, or Person apparently in charge of a branch office, or by mailing a copy to such Person by recorded mail to the address for service listed with the Alberta Corporate Registry.
- 7.6. A Municipal Tag shall be in a form approved by the CAO, and shall state:
- a) the name of the Person to whom the Municipal Tag is issued;
 - b) a description of the Property upon which the offence has been committed, if applicable;
 - c) a description of the offence and the applicable Bylaw Section;
 - d) the appropriate penalty for the offence as specified in this Bylaw;
 - e) that the penalty shall be paid within thirty (30) days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - f) any other information as may be required by the CAO.
- 7.7. A Person to whom a Municipal Tag has been issued may pay the penalty specified on the Municipal Tag and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.
- 7.8. If a Municipal Tag has been issued and the penalty specified on the Municipal Tag has not been paid within the prescribed time, a Peace Officer may issue a Violation Ticket to the Person to whom the Municipal Tag was issued.
- 7.9. Notwithstanding Subsection 7.8, a Peace Officer may immediately issue a Violation Ticket to any Person whom the Peace Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 7.10. A Violation Ticket issued with respect to a Violation of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
- 7.11. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- a) specify the fine amount established by this Bylaw for the offence; or
 - b) require a Person to appear in court without the alternative of making a voluntary payment.
- 7.12. A Person who commits an offence may:
- a) if a Violation Ticket is issued in respect of the offence; and
 - b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence
- make a voluntary payment equal to the specified fine.
- 7.13. A Person to whom a Violation Ticket with a specified penalty has been issued may plead guilty by making a voluntary payment in respect of the summons by delivering to the Provincial Court on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided by this Bylaw.

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7.14. Where a Clerk of the Court records in the Court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and imposition of a fine in the amount of the specified penalty.

7.15. Nothing in this Bylaw shall be construed to limit or hinder the ability of the Municipality to enforce this Bylaw by way of an order issued pursuant to Section 545, 546 or 645 of the *Municipal Government Act*.

8. PROTECTION FROM LIABILITY

8.1. The Municipality, any Designated Officer or any person who inspects any Property under this Bylaw, or any person who performs any work on behalf of the Municipality to remedy a contravention under this Bylaw is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work.

9. EFFECTIVE DATE

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

10. GENERAL

10.1. Each provision of this Bylaw is independent of all other provisions. If any provision of the Bylaw is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

10.2. This Bylaw shall come into full force when it receives THIRD and FINAL reading and is duly signed.

10.3. The Bylaw rescinds any previous bylaw in reference to regulation of unsightly and untidy property, including any amendments thereto, and without limiting the generality of the foregoing, rescinds the following bylaws:

Bylaw 257-18 (Untidy and Unsightly Premises Bylaw).

11. COMING INTO FORCE

This Bylaw shall come into effect upon the third and final reading and signing of this Bylaw.

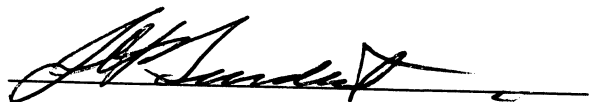
READ a first time this 21st day of September 2021.

READ a second time this 21st day of September 2021.

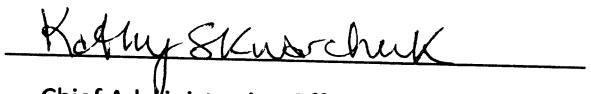
UNANIMOUS CONSENT to proceed to third reading this 21st day of September 2021.

READ a third and final time this 21st day of September 2021.

SIGNED this 22nd day of September 2021.



Mayor, Jim Benedict



Chief Administrative Officer, Kathy Skwarchuk

SCHEDULE "A"

Alberta Beach Bylaw #286-21
Municipal Government Act, Sections 545 and 546

REMEDIAL ORDER

DATE: _____

- SERVED BY: Recorded Mail
 Personal Delivery
 Posted at Property

TO:

[Name of Owner]

[Mailing Address]

RE: THE PROPERTY LOCATED AT:
PLAN _____, BLOCK _____, LOT _____

With the municipal address of:

in Alberta Beach, Alberta. (the "Property")

The undersigned, being a Designated Officer under Alberta Beach Bylaw 286-2021, being a Bylaw respecting unsightly and untidy property, finds that the above-named Owner is in contravention of this Bylaw as a result of the following circumstances:

1. _____
2. _____
3. _____
4. _____

[This list may be continued on a separate page]

YOU ARE ORDERED to remedy the contravention(s) by doing the following:

1. _____
2. _____
3. _____
4. _____

[This list may be continued on a separate page]

THIS ORDER is made pursuant to [select one option only]:

- Section 545 of the *Municipal Government Act*; or
 Section 546 of the *Municipal Government Act*.

YOU MUST COMPLY with this Order by the following date and time:

DATE: _____

TIME: _____ a.m./p.m.

IF YOU DO NOT COMPLY with this Order by the date and time set out above, Alberta Beach will take the actions or measures set out above at your expense. Pursuant to section 553(1)(c) of the *Municipal Government Act*, unpaid expenses and costs incurred by the municipality to take the actions or

measures set out above may be added to the tax roll for a parcel of land that you own.

A person who receives a Remedial Order may, with written notice, request that Alberta Beach Council review this Remedial Order.

A written notice requesting a review by Council shall:

- a) set out
 - (1) The name, address and (if applicable) the email address of the Owner;
 - (2) A copy of the order in respect of which the review is being sought;
 - (3) The legal description of the Property affected; and
 - (4) The grounds upon which the request for review is based;
- b) be accompanied by an administrative fee of:
 - (1) \$100.00 if a residential property; or
 - (2) \$200.00 if any other property;
- c) be delivered personally or sent by recorded mail to the Alberta Beach office within:
 - (1) fourteen (14) days of being served with this Remedial Order, if it is made under section 545 of the *Municipal Government Act*; or
 - (2) seven (7) days of being served this Remedial Order, if it is made under section 546 of the *Municipal Government Act*.

THIS ORDER IS SIGNED BY:

X _____
[signature]

[Print Name]

A Designated Officer for Alberta Beach