

TOWN OF MOSSBANK

**BYLAW NO. 01/19**

**NUISANCE BYLAW**

**A BYLAW TO PROVIDE FOR THE ABATEMENT OF NUISANCES**

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The Council of the Town of Mossbank in the Province of Saskatchewan enacts as follows:

**Short Title**

1. This Bylaw shall be known as the “Nuisance Bylaw”.

**Purpose**

2. The purpose of this Bylaw is to provide for the abatement of nuisances with the intent of promoting:
  - a. the safety, health and welfare of all persons residing in or visiting the Town of Mossbank;
  - b. the use and enjoyment of one’s own property except wherein said use and enjoyment infringes on another’s ability to use and enjoy his or her own property or presents a risk to anyone’s safety, health or welfare;
  - c. efforts to mitigate the objectionable nature of a nuisance when a mutually acceptable solution is achievable; and
  - d. the abatement of all nuisances wherein there is no benefit to any person in terms of use and enjoyment of property.
3. The *Canadian Charter of Rights and Freedoms* guarantees equal treatment under the law and, as such, the Town of Mossbank shall endeavour to enforce this Bylaw impartially:
  - a. Prohibited nuisances shall be clearly defined in order to avoid ambiguity and facilitate compliance; and
  - b. Prohibited nuisances shall be limited to those which the majority of the community as a whole can uphold as a community standard.

**Definitions**

4. In this Bylaw:
  - a. “Administrator” means the Administrator (otherwise known as the Chief Administrative Officer) of the Town of Mossbank;
  - b. “building” means a building within the meaning of *The Municipalities Act*;
  - c. “Building Inspector” means the person(s) appointed by Council as the Building Official for the Town of Mossbank;

- d. "cathouse" means a building designed for the sheltering of a cat that is licensed in accordance with the Animal Control Bylaw, with a single doorway not exceeding 0.3 metres in width by 0.3 metres in height.
- e. "clean skull" means an animal skull that has been completely cleaned of all flesh and blood, as may be used as a yard decoration.
- f. "Council" means the municipal council of the Town of Mossbank;
- g. "Designated Officer" means the Administrator, any other employee(s) appointed by the Administrator, or a contractor or any other person appointed by resolution of Council to exercise any rights and powers granted under this Bylaw in regard to enforcement;
- h. "dilapidated structure" means any structure that is not sufficiently maintained in compliance with section 5 of this Bylaw.
- i. "doghouse" means a building designed for the sheltering of a dog that is licensed in accordance with the Animal Control Bylaw, with a single doorway not exceeding one (1) metre in width by one (1) metre in height.
- j. "driveway" means any part of the property consisting of gravel, asphalt, concrete or paving stone which is used for the parking of vehicles or as an approach to a garage and excludes any such area wherein any item other than a vehicle is stored or located upon.
- k. "Fire Chief" means the Fire Chief of the Mossbank & Rural Fire Department;
- l. "garden" means a part of the yard dedicated to the growth of edible or decorative plants (excluding those prohibited under this Bylaw).
- m. "graffiti" means any drawings, inscription, writing or other mark that disfigures or defaces any structure, including but not limited to profanity, depictions of a sexual act or organ, offensive depictions of a religious or political figure, and anything perceived to be an attack on any person (the existence of any such condition is at the sole discretion of the Designated Officer).
- n. "overweight vehicle" means any tractor, tandem truck, semi-truck or any other self-propelled motorized vehicle with a curb weight exceeding 5 tonnes.
- o. "Municipality" means the Town of Mossbank;
- p. "nuisance" means any condition or state of property, object, activity, smell, noise or anything else of a safety or health concern or of an objectionable nature including but not limited to those prohibited in this Bylaw.
- q. "occupant" means an occupant as defined in *The Municipalities Act*;
- r. "owner" means an owner as defined in *The Municipalities Act*;

- s. “project car” means any motorized vehicle that is self-propelled when in operating condition including but not limited to motorcycles, cars, SUVs, motorhomes, vans, and trucks, that:
  - i. cannot operate as a self-propelled vehicle in its current state due to a mechanical or other issue;
  - ii. is missing any of its wheels or is supported at any point on the ground by anything other than its wheels; or
  - iii. cannot be licensed for use due to safety deficiencies; and that
  - iv. is located on private land.
- t. “property” means everything within the legal boundaries of the lot or parcel and, where appropriate for the purposes of this Bylaw, will include the airspace above the ground level up to sixty-one (61) metres;
- u. “residential district” means any property zoned for residential use by the Zoning Bylaw of the Town of Mossbank.
- v. “shipping container” means an article of transportation equipment, including but not limited to those carried on a chassis or as part of an inoperative vehicle, that is designed to facilitate the transportation of goods, including but not limited to intermodal shipping containers, transport trailers and straight truck boxes (and excluding any fully-operational, self-propelled, motorized vehicles).
- w. “sound of an acute nature” means any sound occurring at a rate of once per minute or less.
- x. “sound of a persistent nature” means any sound occurring at a rate of at least twice per minute, if there is a pause between sounds, or any constant sound exhibiting no pauses.
- y. “structure” means anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having permanent location on the ground or soil including but not limited to buildings, accessory buildings and fences (but not including pavements, curbs, walks or open-air surfaced areas).
- z. “sufficiently screened” means:
  - i. fully screened from public view from any point directly outside the property line by a non-transparent fence at least 1.8 metres in height;
  - ii. located within a structure erected in accordance with the bylaws of the Municipality; or
  - iii. otherwise not visible from any reasonable vantage point outside the property, including but not limited to the windows of any building.
- aa. “trailer” means any non-motorized vehicle designed to be attached to a self-propelled motorized vehicle of any kind and pulled.
- bb. “UAV” or “unmanned air vehicle” means a self-propelled aircraft designed to fly without a human operator on board.

- cc. "yard" means any part of the property's ground space whereupon there is no structure or driveway placed or resting atop.

### **Buildings and Structures**

- 5. The owner of any building or structure (including fences) in the Municipality shall ensure that the building or structure is maintained such that:
  - a. it does not pose a risk to any person's health or safety, including but not limited to:
    - i. risk of fire, in the opinion of the Fire Chief;
    - ii. risk of collapse, in the opinion of the Building Inspector; and/or
    - iii. other risk of injury, in the opinion of the Designated Officer, due to:
      - 1. broken glass or other sharp hazards;
      - 2. any part of the building or any attachment to it that is not securely fastened;
      - 3. insufficient measures to prevent unauthorized entry in the case of an unoccupied or abandoned building;
      - 4. building exits not being maintained in a safe and unobstructed condition;
      - 5. accumulations of ice or other hazardous loose material above entrances/exits or egress windows;
      - 6. electrical wiring that is exposed (missing any protective covering deemed necessary by the Designated Officer);
      - 7. overhead electrical masts that, in the opinion of the Designated Officer, are insufficient to support the electrical wire; and/or
      - 8. any other state deemed to be a risk of injury by the Designated Officer;
  - b. the roof of the building is fully intact and has not collapsed in any part; and
  - c. the building, excluding a doghouse or cathouse, is sealed in order to prevent the sheltering or entry of any type of animal.
- 6. Each building, fence or structure not physically attached to the other shall be considered separately when determining if it is a dilapidated structure and whether repairs are required under this Bylaw.
- 7. No owner shall permit graffiti to remain on any structure.

### **Yard Maintenance**

- 8. The following shall not be permitted on any property:
  - a. The growth of any plants declared to be Prohibited under *The Weed Control Act*; and/or

- b. Any yard, when split according to a grid pattern consisting of three (3.0) metre long by three (3.0) metre wide spaces (or less for the last column/row, as required), a Noxious or Nuisance Weed under *The Weed Control Act* in more than 50% of the total of the spaces.
9. Except for vegetation described in section 10 of this Bylaw, vegetation shall not be permitted to grow in excess of 0.3 metres in height.
10. The following types of vegetation, except wherein the plant is prohibited otherwise by this Bylaw, shall not be subject to a height restriction:
  - a. Any type of tree, bush, shrub or vine;
  - b. Any part of a garden growing plants not intended for human or animal consumption, up to a maximum of 50% of the yard; or
  - c. Any part of a garden growing plants intended for human or animal consumption;
11. Any outdoor furniture that poses a risk of infestation by rodents or saturation by water is prohibited, including but not limited to:
  - a. Sofas, mattresses and any other padded furniture intended for indoor use which, for the purposes of this Bylaw, shall be any wherein the padding cannot be removed without causing damage to the furniture.
12. Except where sufficiently screened and in a state such that no person could be trapped inside, outdoor storage of appliances shall be prohibited including but not limited to:
  - a. Washing machines;
  - b. Dryers;
  - c. Dishwashing machines;
  - d. Freezers;
  - e. Refrigerators;
  - f. Ovens; and
  - g. Water heaters.
13. Piles of branches or other wood shall not remain on any property except where neatly stacked (in the opinion of the Designated Officer), intended for firewood, and occupying an area of less than 2.75 cubic metres.
14. Dead trees shall be removed by the owner within a period of one (1) year.
15. Fallen or downed trees shall not be permitted by the owner to remain on the property.
16. Except where sufficiently screened, any building materials, lumber, scrap metal, boxes or other items stored in a yard shall be neatly arranged, in the opinion of the Designated Officer.
17. Except where abutting a non-combustible wall, in the opinion of the Fire Chief, any combustible materials shall be at least 1.0 metre from any structure larger than nine (9.0) square metres in area.
18. Yards shall not contain the feces of any animal unless buried.
19. Yards shall not contain any human fecal matter, whether buried or not.

20. Animal carcasses or any part of an animal (hides, blood, etc.), excluding antlers or clean skulls, shall not:
  - a. be located in any yard; or
  - b. be visible from any reasonable vantage point outside the property line (including but not limited to windows of nearby buildings), even if located within a structure.
21. Except where all necessary safety precautions have been taken, in the opinion of the Designated Officer, hazardous chemicals, sharp objects or any other item or substance that pose a safety or health risk shall not be stored in any yard.
22. No owner shall permit water from downspouts (or otherwise redirected off of any structure) to flow onto any property that is not a municipal roadway or another area approved by the Designated Officer.
23. Shipping containers shall not be permitted in any residential district.
24. Shipping containers may be permitted in a district other than a residential district, subject also to the requirements or conditions of other bylaws of the Town of Mossbank (which may limit these to even fewer zoning districts and include a number of other conditions), under the following conditions:
  - a. No combustible materials shall be contained in the shipping container, including but not limited to those within a vehicle's fuel tank or the like;
  - b. The shipping container has been inspected by the Building Inspector and is adequately ventilated, in the opinion of the Building Inspector, in order to reduce the chance of an explosion should the owner or occupant ever violate subsection 24(a) of this Bylaw; and
  - c. The shipping container has received discretionary use approval from Council and otherwise complies with all bylaws of the Town of Mossbank.

### **Storage of Vehicles**

25. No more than two (2) project cars may be located within any property in a residential district unless sufficiently screened.
26. Except for when necessary for the purposes of an ongoing construction, demolition, removal, renovation or other work on the property wherein the overweight vehicle is employed, no property in a residential district shall have an overweight vehicle in a yard or driveway.

### **Open Excavations**

27. No owner or occupant shall cause or permit any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool, or hot tub to exist on any property without adequate fencing or other obstruction adequate to prevent injury, in the opinion of the Designated Officer.

### **Noise**

28. Notwithstanding any of the provisions of the Noise Bylaw of the Town of Mossbank, the penalties and regulations of which also apply, any outdoor sound of a persistent nature that continues for a consecutive period of three (3) hours or more in a residential district shall be prohibited unless the following apply:

- a. the sound is of a decibel level not exceeding 75 decibels (roughly equivalent to the sound of a vacuum cleaner); or
  - b. the sound is a result of construction, demolition, removal or renovation of a structure.
29. Notwithstanding any of the provisions of the Noise Bylaw of the Town of Mossbank, the penalties and regulations of which also apply, any outdoor sound of an acute nature that continues for a consecutive period of one (1) hour or more in a residential district shall be prohibited unless the following apply:
- a. the sound is of a decibel level not exceeding 125 decibels (roughly equivalent to the sound of a balloon popping); or
  - b. the sound is a result of construction, demolition, removal or renovation of a structure.
30. Notwithstanding any of the provisions of the Noise Bylaw of the Town of Mossbank, the penalties and regulations of which also apply, any outdoor sound of a decibel level exceeding 75 decibels (roughly equivalent to the sound of a vacuum cleaner) shall be prohibited from the hours of 11:00 p.m. until 7:00 a.m. unless approval has been granted by Council for a stated purpose or the sound is otherwise necessary, in the opinion of the Designated Officer, as part of an emergency.

### **Smells**

31. The use and enjoyment of a property shall not result in the emanation of foul odours beyond the boundaries of the property and these shall include:
- a. smells resulting from the burning of anything other than wood, tobacco or other legal smoking products, incense, and citronella or like substances designed for use in residential districts;
  - b. smells from a septic system of any kind or from fecal matter for any reason;
  - c. smells resulting from the outdoor storage of household waste or recycling;
  - d. smells resulting from rotten grain or vegetable matter, whether the result of a compost pile or not;
  - e. smells from animal carcasses, hides or any part of an animal (including blood); and
  - f. smells resulting from the urination or feces of animals, whether by pets owned by the owner or not.

### **Other Nuisances**

32. No owner or occupant shall operate a UAV within any other property (excluding municipally-owned property), without the permission of the owner or occupant, as the case may be, except when:
- a. the UAV is being operated by a Peace Officer in the lawful performance of his or her duty;
  - b. the UAV is being operated by a municipal, provincial or federal government, department or agency representative in the lawful performance of his or her duty; or

- c. approval has been granted by resolution of Council for a stated purpose.

### **Enforcement of Bylaw**

33. The administration and enforcement of this Bylaw is hereby delegated to the Designated Officer.
34. Unless a longer or shorter period is otherwise specified in this Bylaw and excluding nuisance conditions relating to a dilapidated structure (see section 35), the Designated Officer may permit a violation of any part of this Bylaw to exist for a period of up to two (2) months in order to allow the owner or occupant to remedy the bylaw contravention.
35. When a prohibited nuisance condition exists as a result of a dilapidated structure, the Designated Officer may only permit said violation to exist for a period of up to one (1) month.
36. Notwithstanding sections 34-35 of this Bylaw, when a prohibited nuisance condition exists as a result of construction, demolition, removal or renovation of a structure, the Designated Officer may permit the nuisance condition to exist for any longer time period.
37. Notwithstanding sections 34-35 of this Bylaw, Council may, by resolution, permit any prohibited nuisance condition to exist for any longer time period.

### **Inspections**

38. The inspection of property by the Designated Officer to determine if this Bylaw is being complied with is hereby authorized.
39. Inspections under this Bylaw shall be carried out in accordance with section 362 of *The Municipalities Act*.
40. No person shall obstruct a Designated Officer who is authorized to conduct an inspection or any person who is assisting a Designated Officer.

### **Order to Remedy Contraventions**

41. If a Designated Officer finds that a person is contravening this Bylaw, the Designated Officer may, by written order, require the owner or occupant of the property to which the contravention relates to remedy the contravention.
42. Orders given under this Bylaw shall comply with section 364 of *The Municipalities Act*.
43. Orders given under this Bylaw shall be served in accordance with section 390 of *The Municipalities Act*.

### **Registration of Notice of Order**

44. If an order is issued pursuant to section 44, the Municipality may, in accordance with section 364 of *The Municipalities Act*, give notice of the existence of the order by registering an interest against the title to the land that is the subject of the order.

### **Appeal of Order to Remedy**

45. A person may appeal an order made pursuant to section 44 in accordance with section 365 of *The Municipalities Act*.



## **Municipality Remedying Contraventions**

46. The Municipality may, in accordance with Section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this Bylaw.
47. In an emergency, the Municipality may take whatever actions or measures are necessary to eliminate the emergency in accordance with the provisions of section 367 of *The Municipalities Act*.

## **Recovery of Unpaid Expenses and Costs**

48. Any unpaid expenses and costs incurred by the Municipality in remedying a contravention of this Bylaw may be recovered either:
  - a. by civil action for debt in a court of competent jurisdiction in accordance with section 368 of *The Municipalities Act*; or
  - b. by adding the amount to the taxes on the property on which the work is done in accordance with section 369 of *The Municipalities Act*.

## **Offences and Penalties**

49. No person shall:
  - a. fail to comply with an order made pursuant to this Bylaw;
  - b. obstruct or interfere with any Designated Officer or any other person acting under the authority of this Bylaw; or
  - c. fail to comply with any other provision of this Bylaw.
50. A Designated Officer who has reason to believe that a person has contravened any provision of this Bylaw may serve on that person a Notice of Violation, which Notice of Violation shall indicate that the Municipality will accept voluntary payment in the sum of \$50.00 to be paid to the Municipality within 15 days.
51. Notwithstanding section 50, the Designated Officer may, on a first offence, issue a warning without penalty.
52. Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to section 44 of this bylaw.
53. Where the Municipality receives voluntary payment of the amount prescribed under section 50 within the time specified on the Notice of Violation, the person receiving such shall not be liable to prosecution for the alleged contravention; however, in accordance with section 52, if the nuisance condition continues to exist, an additional Notice of Violation may be issued upon the expiration of the period stated therein and, if unpaid within the time period, may result in prosecution despite voluntary payment being received for the former Notice of Violation.
54. Every person who contravenes any provision of section 49 is guilty of an offence and liable on summary conviction:
  - a. in the case of an individual, to a fine of not more than \$10,000;
  - b. in the case of a corporation, to a fine of not more than \$25,000;and

- c. in the case of a continuing offence, to a maximum daily fine of not more than \$2,500 per day.

**Severability**

55. If a Court of competent jurisdiction should declare any section or part of this Bylaw to be invalid, these shall not be construed as having persuaded or influenced the Council to pass the remainder of the Bylaw, and it is hereby declared that the remainder of the Bylaw shall be valid and remain in full force and effect.

**Repeal Previous Bylaw**

56. Bylaw No. 07/18 is hereby repealed.

**Coming Into Force**

57. This Bylaw shall come into force and take effect on the date of final passing.

[SEAL]

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Mayor

\_\_\_\_\_  
Administrator

Read a third time and adopted  
this 14<sup>th</sup> day of January, 2019.