

TOWN OF ONOWAY
By-Law 638-05

A BYLAW OF THE TOWN OF ONOWAY, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE PREVENTION, ABATEMENT AND REGULATION OF UNTIDY AND UNSIGHTLY PREMISES

WHEREAS a Council of the municipality may, pursuant to Section 7 of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta 2000, and any amendments thereto, pass bylaws respecting untidy and unsightly premises;

NOW THEREFORE the Municipal Council of the Town of Onoway, duly assembled, hereby enacts as follows:

I. Title:

This Bylaw may be cited as the Untidy and Unsightly Premises Bylaw of the Town of Onoway.

II. Definitions:

In this Bylaw:

- A) “Council” shall mean the municipal Council of the Town of Onoway duly assembled and acting as such;
- B) “Highway” has the same meaning as defined in the Highway Traffic Act;
- C) “Litter” shall mean any solid or liquid material or product or combination of solid or liquid materials or products including but not limited to:
 - i) any rubbish, refuse, garbage, package, container, bottle, can, manure, human or animal excrement or sewage or the whole or part of an animal carcass; or
 - ii) the whole or part of any article, raw or processed material, construction material, motor vehicle, or other machinery that is disposed of, or in a wrecked, discarded, or abandoned condition;
- D) “Objectionable Items” shall mean:
 - i) any object or chattel which, in the opinion of the bylaw Enforcement Officer, is unsightly or would tend to adversely affect the amenities of the area; or
 - ii) any excavation, storage or piling up of materials required during the construction stage unless all necessary safety measures are undertaken, or
 - iii) more than one unlicensed and/or unregistered vehicle on a property at one timewithout the prior written permission of the Municipal Manager or the Bylaw Enforcement Officer recognizing extenuating circumstances;
- E) “Owner” shall mean any person who is registered under the Land Titles Act as the owner of the land;
- F) “Peace Officer” shall mean a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or a Special Constable as appointed by the municipality;
- G) “Premises” shall mean the exterior walls and the components of any building or structure and shall include the land, accessory buildings, fences and erections thereon;
- H) “Town” shall mean the Town of Onoway, a municipal corporation of the Province of Alberta, and includes the area contained within the boundaries of the Town where the context so requires;

TOWN OF ONOWAY
By-Law 638-05

- D) “Unsightly” means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials.
- J) “Untidy” shall mean the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of the neighboring property and shall also include grass, plants and vegetation which is not trimmed;

III. Prohibitions

- A) No person being the owner, agent, lessee or occupier of any land within the Town shall permit the land of which such person is the owner, agent, lessee, or occupier to be in or remain unsightly.
- B) No person being the owner, agent, lessee or occupier of any land within the Town shall permit the land of which such person is the owner, agent, lessee, or occupier to be in or remain untidy.
- C) No person being the owner, agent, lessee or occupier of any land within the Town shall permit the land of which such person is the owner, agent, lessee, or occupier to have materials defined as litter on the property causing the property to be unsightly or untidy.
- D) The owner, agent, lessee, or occupier of any land within the Town shall cut the grass of the portion of the highway that lies between the boundary of this land and the centre of the highway which abuts or flanks the property of which such person is the owner, agent, lessee or occupier.
- E) The owner, agent, lessee or occupier may be required to construct a fence, wall, screen or similar structure to prevent the untidy land or unsightly premises from being viewed from any highway or other public place.
- F) No owner, agent, lessee or occupier of any land within the Town shall permit any objectionable items, as defined, on the property.

IV. Enforcement

- A) A Peace Officer may, for the purpose of performing his or her duties and exercising his or her powers under this bylaw, enter at any reasonable hour and inspect the land or premises.
- B) Where any lands or premises in the Town are found to be in contravention of the bylaw, the Peace Officer shall give notice in writing to a person who is under a duty imposed by this bylaw to prevent such a condition and to remedy the same, and the Peace Officer may direct that this be done in such a manner as he or she deems advisable on or before a day to be named in the notice.
- C) The Peace Officer shall give not less than seven (7) days notice from the date of delivery of the notice for its compliance.
- D)
 - 1) Notice to Owner given by the Peace Officer under the provisions of this bylaw shall be in writing and in quadruplicate in *Form A* as set out in a schedule to Bylaw 638-05.
 - 2) One of the notices shall be served on the person to whom it is addressed, one to the assessed owner, one shall be delivered to the Municipal Manager and the fourth shall be retained by the official giving the notice.
 - 3) A notice given by the Peace 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 if:

TOWN OF ONOWAY
By-Law 638-05

- i) the notice is personally delivered to the person to home it is addressed; or
 - ii) the notice is left with a person apparently over the age of sixteen (16) years at the place of abode of the person to whom the notice is addressed; or
 - iii) the notice is sent by registered mail in a paid cover addressed to the last known postal address of the person to whom the notice is addressed, or as shown on the assessment roll as the case may be; or
 - iv) posting the notice in a conspicuous place on the land referred to in the notice or on any building or erection thereon when the Peace Officer has reason to believe:
 - a) that the person to whom the notice is addressed is evading service thereof; or
 - b) for any reason it is improbable that the notice will be received by the person to whom it is addressed within three days of the date of the notice if it is delivered in any of the ways mentioned in this section.
- E) If, after the day designated for the compliance in any notice given pursuant to this bylaw, the owner fails to remedy the condition stated in the notice, the Peace Officer may serve an ORDER TO REMEDY upon the owner involved in the infraction.
- F) The Order shall be in *Form B* set out as Schedule “A” to Bylaw 638-05 with:
- i) a description of the land on which the infraction reported of is located;
 - ii) a description of the infraction reported;
 - iii) Any such order may require the owner, within a period of time which shall not be less than fifteen (15) days from the date of making of the order, to remedy the untidy or unsightly condition of the premises in the manner set forth in the order.
 - iv) If the owner does not remedy the condition within the period specified within the order, the said person authorized in the order shall remedy the condition to the extent directed in the order.
 - v) Where the owner does not remedy the condition and the Town incurs costs in remedying the condition, such costs are chargeable to the owner and recoverable as a debt due to the Town.
 - vi) Where the owner neglects or refuses to pay the Town of Onoway costs in obtaining compliance with the order, the Town of Onoway may cause these costs 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 is in the case of ordinary municipal taxes.
 - vii) that the owner may, by written notice, appeal the Order to the Council within 14 days.
- G) The notice shall be served upon the owner in the same manner as set out in Enforcement Section 4.

V. Penalties

- A) 1) Any person who contravenes, disobeys, refuses or neglects to obey any provision of the bylaw by:
- a) doing any act or thing which he is prohibited from doing herein; or
 - b) failing to do any act or thing he is required to do herein;
- is guilty of an offence and is liable on summary conviction to a fine as set out in Schedule “B” of Bylaw 638-05.

TOWN OF ONOWAY
By-Law 638-05

- 2) If a person is convicted of an offence under this bylaw, the court may, in addition to a penalty under subsection (1), order that the convicted person clean up the nuisance, unsightly or untidy premises or land as the court considers appropriate.
- B.
- 1) Notwithstanding any other provisions for penalties in this bylaw, an Enforcement Officer may, in lieu of issuing a notice in respect to an alleged breach of any prohibition of this bylaw, issue a voluntary penalty ticket and the accused may within seven (7) days of the issuance of such ticket pay the Town the same monetary penalty as may be imposed under the provisions of this bylaw, as outlined in Section V.A.(1).
 - 2) By paying such monetary penalty as prescribed in this section, an accused shall be deemed to be guilty of the offense for which such penalty was paid.
 - 3) In the event that the prescribed voluntary penalty is not paid within the time allotted herein, an Enforcement Officer may thereafter issue a notice in respect to the alleged breach for which the voluntary penalty ticket was issued.

This bylaw repeals Bylaw 553-00, Bylaw 588-02 and Bylaw 635-05, and shall come into full effect on the final reading thereof.

READ A FIRST TIME THIS 24th day of October, 2005.

READ A SECOND TIME THIS 23rd day of January, 2006.

READ A THIRD AND FINAL TIME THIS 23rd day of January, 2006.

Signed By Pat Yuill
Mayor

Signed By Ryan Bard
Municipal Manager

TOWN OF ONOWAY
By-Law 638-05

SCHEDULE "A" TO BYLAW 638-05

FORM A

NOTICE TO OWNER

TO: (Name of Owner)
(Address)

RE: THOSE PREMISES LOCATED AT
(Address)
IN THE TOWN OF ONOWAY, ALBERTA

WHEREAS Bylaw 638-05, Unsightly and Untidy Premises Bylaw of the Town of Onoway provides:

Prohibitions

No person being the owner of any land or premise within the Town of Onoway shall permit the land or premises to be or remain in an untidy or unsightly condition or to permit objectionable items as defined in the bylaw.

AND WHEREAS the following definitions are provided

"Objectionable Items" shall mean:

- i) any object or chattel which, in the opinion of the bylaw Enforcement Officer, is unsightly or would tend to adversely affect the amenities of the area; or
- ii) any excavation, storage or piling up of materials required during the construction stage unless all necessary safety measures are undertaken, or
- iii) more than one unlicensed and/or unregistered vehicle on a property at one time

without the prior written permission of the Municipal Manager or the Bylaw Enforcement Officer recognizing extenuating circumstances;

"Unsightly" means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials;

"Untidy" means the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighboring property and shall also include grass, plants and vegetation which is not trimmed;

AND WHEREAS a complaint has been received in respect to the above premises.

NOW THEREFORE, pursuant to Bylaw No. 638-05, the Unsightly and Untidy Premises Bylaw of the Town of Onoway, take notice that those premises located at (Address) in the Town of Onoway, Alberta, have been found to be Untidy and Unsightly premises in that they :

(DESCRIPTION OF CONDITION)

AND FURTHER TAKE NOTICE that if the said untidy and unsightly condition is not remedied on or before (DATE) that the matter may be reported to Council requesting an order directing you to do the said work.

DATED at the Town of Onoway, in the Province of Alberta , the _____day of _____, A.D. _____.

TOWN OF ONOWAY

Per Peace Officer

TOWN OF ONOWAY
By-Law 638-05

FORM B

Town of Onoway Bylaw 638-05
Municipal Government Act, Section 545

ORDER TO REMEDY

TO: (Name of Owner)
(Address)

RE: THOSE PREMISES LOCATED AT
(ADDRESS)
IN THE TOWN OF ONOWAY, IN THE PROVINCE OF ALBERTA

WHEREAS there is a contravention of Bylaw 638-05, being a Bylaw for the prevention, abatement and regulation of untidy and unsightly premises, in the Town of Onoway, in the Province of Alberta.

NOW THEREFORE BE IT ORDERED that the owner, namely;

_____ of _____

do, on or before the _____ day of _____, _____ A.D., remedy the said untidy and unsightly condition of those premises described as:

in the Town of Onoway, in the Province of Alberta by: (required action)

AND IT IS FURTHER ORDERED that if the said condition on the said premises is not remedied in the manner stated above by the said date above established, that the Town of Onoway may take immediate and necessary actions to remedy the condition in the manner above stated.

AND IT IS FURTHER ORDERED that if the said owner does not remedy the condition and the Town of Onoway incurs costs in remedying the condition, such costs are chargeable to the said Owner and are to be added to the tax roll as a charge against the lands of the said owner, and are deemed to be a tax from the date they are added to the tax roll for the premises.

A person who received a written Order under section 545 of the Municipal Government Act may, with written notice, request the Town of Onoway Council review this Order within 14 days of receiving this Order.

TOWN OF ONOWAY
Bylaw Enforcement Officer

J. Brundell

TOWN OF ONOWAY
By-Law 638-05

SCHEDULE "C"

PENALTIES

- V. A 1) A fine of not less than ONE HUNDRED (\$100.00) DOLLARS and not more than FIVE HUNDRED (\$500.00) DOLLARS, and in the event of failure to pay or the inability to pay any fine levied, to imprisonment for a period of not less than three (3) days and not exceeding sixty (60) days, or until such fines and costs of committal are paid.