

TOWN OF ONOWAY
BYLAW NO.735-17

**BEING A BYLAW OF THE TOWN OF ONOWAY TO REGULATE
COMMUNITY STANDARDS WITH RESPECT TO PROPERTY
MAINTENANCE**

WHEREAS, the Town of Onoway has the authority pursuant to Section 7(a) of the Municipal Government Act R.S.A. 2000, cM-26, as amended, to pass bylaws for municipal purposes.

Now Therefore, Onoway Town Council enacts:

PART I – PURPOSE, DEFINITIONS AND INTERPRETATION

PURPOSE

- 1** The purpose of this bylaw is to regulate the appearance and maintenance on privately owned property and immediately adjacent areas in order to promote the safe, enjoyable and reasonable use of such property for the benefit of all citizens of the Town.

DEFINITIONS

- 2** In this bylaw, unless the context otherwise requires:
 - (a) “boulevard” means that part of a highway that: lies directly between the property line of any property to the center of the highway and includes any ditch adjacent to any road that abuts, flanks or otherwise comes in contact with the property line of any property. This also includes the land between the property line and the center of any alley way at the rear of any property.
 - (b) “Bylaw Officer” means a Bylaw Officer or Community Peace Officer appointed by the Town of Onoway.
 - (c) “Town” means the Town of Onoway.
 - (d) “C.A.O.” means the Chief Administrative Officer for the Town of Onoway or his/her delegate.
 - (e) “highway” the same meaning as in the Traffic Safety Act and included any road, street, avenue, alley or parking lot within the municipal boundaries of Onoway.
 - (f) “motor vehicle” has the same meaning as in the Traffic Safety Act.

- (g) “municipal tag” means a ticket alleging an offence issued pursuant to the authority of a bylaw of the Town.
- (h) “occupy”, “occupies” or “occupant” means residing on or to be in apparent possession or control of property.
- (i) “own” or “owns” means:
 - (i) in the case of land, to be registered under the Land Titles Act as the owner of the fee simple estate in a parcel of land; or
 - (ii) in the case of personal property, to be in lawful possession or have the right to exercise control over it or to be the registered owner of it.
- (j) “person” means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative.
- (k) “property” means a parcel of land including any improvements.:
- (l) “sidewalk” means that part of the highway especially adapted to the use or ordinarily used by pedestrians and includes that part of a highway between the curb line or, where there is no curb line, the edge of the roadway, and the adjacent property line whether or not it is paved or unpaved; and
- (m) “violation ticket” has the same meaning as in the Provincial Offences Procedure Act.
- (n) “excessive” means exceeding what is usual, necessary or proper.

RULES FOR INTERPRETATION

- 3** The table of contents, marginal notes and headings in this bylaw are for reference purposes only.

PART II – PROPERTY MAINTENANCE

DEFINITIONS

- 4** In this Part, “building” includes a structure and any part of a building or structure placed in, on or over land whether or not it is so affixed to become transferred without special mention by a transfer or sale of the land.

HIGHWAY OCCUPANCY

- 5 For the purpose of the Part, a person who owns or occupies land shall be considered to occupy that portion of any highway between the property line and the centre of the highway.

LAND

- 6 A person shall not cause or permit a nuisance to exist on land they own or occupy.
- 7 For the purpose of greater certainty a nuisance, in respect of land, means land that shows signs of a serious disregard for general maintenance and upkeep, whether or not it is detrimental to the surrounding area, some examples of which include:
- (a) excessive accumulation of uncovered material including but not limited to building materials, appliances, household goods, boxes, tires, vehicle parts, garbage or refuse, whether of any apparent value or not;
 - (b) smelly or messy compost heaps;
 - (c) unkempt grass or weeds higher than 15 centimeters;
 - (d) excessive accumulation of grass clippings, or fallen leaves.
 - (e) production of any excessively offensive odors including those caused by animal feces.
 - (f) any tree, shrub, other type of vegetation or any structure:
 - (i) that interferes or could interfere with any public work or utility;
 - (ii) that obstructs any sidewalk adjacent to the land; or
 - (iii) that interferes with the lawful enjoyment of adjacent property owners.
 - (g) unauthorized drainage of water from one person's property to another.
8. A person shall not cause or permit any loose litter, garbage or refuse in the area used for the storage or such materials or in the area used for the placement of such materials for collection on land they own or occupy.

SIDEWALKS

9. (1) The owner or occupant of any private property adjacent to a sidewalk shall be deemed responsible for the removal of ice or snow from that portion of the sidewalk.

- (i) With respect to residential properties, within 48 hours after the ice or snow has been deposited
 - (ii) With respect to business properties, within 24 hours after the ice and snow has been deposited.
- (2) No person shall remove snow, ice, dirt, debris or other materials from any sidewalk or other property and place:
- (a) onto any portion of a highway; except to the extent that removal of the snow and ice to private property is impractical;
 - (b) onto any other public place adjacent to such property; or
 - (c) onto any private property other than their own.
- (3) Every occupant or owner of every building abutting on or within 3 meters of any sidewalk, highway or other public place shall, remove snow or ice that has accumulated on the roof, eaves or awnings to the extent that a danger is created to persons passing or vehicles legally parked. The corrective action shall be undertaken with due care for the warning and safety of persons passing or vehicles parked.
- (4) If water drips from a building or awning upon a sidewalk, the owner or occupier of the premises shall clean the sidewalk to prevent ice from forming thereon.
- (5) For noncompliance of Section 9 (1), (2), (3), or (4), the Town may serve an order requiring that person to remove the ice or snow within the time specified by the order. Failure to comply with the order may result in the Town undertaking the work. The expenses and costs thereof as determined by the Chief Administrative Officer are an amount owing to the Town by the person to whom the order was issued. Where the owner or occupant fails to pay such costs and expenses the amount thereof may be collected by civil action when in contravention of Sections 9 (2), or (3) or added to the tax roll of the property and collected in like manner as taxes when in contravention of Section 9 (1) or (4).

BOULEVARDS

- 10.** A person shall maintain any boulevard adjacent to land they own or occupy by:
- (a) keeping any grass on the boulevard cut to a height of not more than 15 centimeters;
 - (b) removing any accumulation of fallen leaves, grass trimmings or other debris.

UNOCCUPIED BUILDINGS

11. (1) If a building normally intended for human habitation is unoccupied then any door or window opening in the building shall be secured in a manner sufficient to prevent unauthorized entry into the building while at the same time not detracting from the appearance of the building.
- (2) If a building normally intended for human habitation is unoccupied for any length of time, the owner shall ensure that arrangements are made for the clearing of all snow and ice from any sidewalk adjacent to the said property.

PART III – ENFORCEMENT

OFFENCE

12. A person who contravenes this bylaw is guilty of an offence.

CONTINUING OFFENCE

13. In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect to each day, or part of a day, on which it continues and a person guilty of such an offence is liable to a fine in the amount not less than that established by this bylaw for each such day.

VICARIOUS LIABILITY

14. For the purpose of this bylaw, an act or omission by an employee or agent of a person is deemed also to be an act or omission of the person if the act or omission occurred in the course of the agent's exercising the powers or performing the duties on behalf of the person under their agency relationship.

CORPORATIONS AND PARTNERSHIPS

15. (1) When a corporation commits an offence under this bylaw, every principle director, manager, employee or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether or not the corporation has been prosecuted for the offence.
- (2) If a partner in a partnership is guilty of an offence under this bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

FINES AND PENALTIES

- 16.** (1) 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.
- (2) Without restricting the generality of subsection (1), 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 any offence under Sections 21(3) or 22;
 - (b) \$85.00 for any offence under Section 9;
 - (c) \$100.00 for any offence under Sections 6, 7, 8 or 10;
 - (d) Fines double for any similar subsequent offence pertaining to the same property within 12 months of the date of the previous offence.

MUNICIPAL TAG

- 17.** (1) If a Municipal Tag is issued in respect of an offence, the municipal tag must specify the fine amount established by this bylaw for the offence.
- (2) A Municipal Tag issued under this bylaw may be served:
- (a) by delivering it personally to the individual;
 - (b) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age;
 - (c) by mail to the address shown on the tax roll of the Town or at the Land Titles Registry.
- (3) In the case of a Corporation, a Municipal Tag may be served:
- (a) by delivering personally to any director or officer of the corporation;
 - (b) by delivering it personally to a person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or
 - (c) by mail to the registered office of the corporation.

PAYMENT IN LIEU OF PROSECUTION

- 18.** A person who commits an offence may, if a municipal tag is issued in respect of the offence, pay the fine amount established by this bylaw for the offence and if the amount is paid on or before the required date, the person will not be prosecuted for the offence.

VIOLATION TICKET

- 19.** 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.

VOLUNTARY PAYMENT

- 20.** 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.

ORDER TO COMPLY

- 21.** (1) If the Chief Administrative Officer or Bylaw Officer believes, on reasonable grounds, that a person is contravening any provision of this bylaw, the Chief Administrative Officer or Bylaw Officer may, by written order, require any person responsible for the contravention to remedy it.
- (2) The order may:
- (a) direct a person to stop doing something or to change the way in which the person is doing it;
 - (b) direct a person to take any action or measures necessary to remedy the contravention of the bylaw and, if necessary, to prevent a re-occurrence of the contravention;

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- (c) state a time within which the person must comply with the directions;
 - (d) state that if the person does not comply with the directions within a specified time, the Town will take the action or measure.
- (3) A person named in and served with an order issued pursuant to this section shall comply with any action or measure required to be taken within the time specified.
- (4) An order issued pursuant to this section may be served:
- (a) by delivering it personally to the individual;
 - (b) by leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age;
 - (c) by mail to the address shown on the tax roll of the Town or at the Land Titles Registry.
- (5) In the case of a Corporation, an order may be served:
- (a) by delivering personally to any director or officer of the corporation;
 - (b) by delivering it personally to a person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or
 - (c) by mail to the registered office of the corporation.

OBSTRUCTION

22. A person shall not obstruct or hinder any person in the exercise or performance of the person's powers pursuant to this bylaw.

PART IV – GENERAL

POWERS OF THE CHIEF ADMINISTRATIVE OFFICER

23. Without restricting any other power, duty or function granted by this bylaw the Chief Administrative Officer or Bylaw Officer may:
- (a) carry out any inspections to determine compliance with this bylaw;

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- (b) take any steps or carry out any actions required to enforce this bylaw;
- (c) take any steps or carry out any actions required to remedy a contravention of this bylaw;
- (d) establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;
- (e) establish forms for the purpose of this bylaw; and
- (f) delegate any powers, duties or functions under this bylaw to an employee of the Town.

SEVERABILITY

24. Should any provision of this Bylaw be invalid, then such invalid provisions shall be severed and the remaining Bylaw shall be maintained.

NUMBER AND GENDER REFERENCES

25. All references in this bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.
26. Bylaw 720-15 is rescinded in its entirety upon passing of this bylaw.

READ A FIRST TIME THIS 20th DAY OF JULY, A.D. 2017

READ A SECOND TIME THIS 20th DAY OF JULY, A.D. 2017

UNANIMOUSLY CONSENTED TO THIRD READING THIS 20th DAY OF JULY,
A.D. 2017

READ A THIRD TIME THIS 20th DAY OF JULY, A.D. 2017.

TOWN OF ONOWAY

Signed by Dale Krasnow, Mayor

**Signed by Wendy Wildman
Chief Administrative Officer**