

BYLAW NO.721-15

BEING A BYLAW OF THE TOWN OF ONOWAY, IN THE PROVINCE OF ALBERTA, TO REGULATE, CONTROL AND ABATE NUISANCES, INCLUDING DANGEROUS AND UNSIGHTLY PREMISES.

WHEREAS, the Town of Onoway has the authority pursuant to Section 7(c) of the *Municipal Government Act, R.S.A. 2000, c.M-26. 1*, as amended, to pass bylaws respecting nuisances generally, including unsightly premises; and

NOW THEREFORE the Council of the Town of Onoway, pursuant to the authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

I. SHORT TITLE

1.1 This Bylaw shall be cited as the “Dangerous and Unsightly Premises Bylaw”.

II. PURPOSE

The purpose of this bylaw is to establish and enforce minimum standards relating to the state of repair and maintenance of property and to regulate, control and abate nuisances, including unsightly premises, in the Town of Onoway.

III. DEFINITIONS

3.1 In this Bylaw:

- (a) “C.A.O. means the Chief Administrative Officer for the Town of Onoway or his or her delegate
- (b) “Council” shall mean the Municipal Council of the Town of Onoway.
- (c) “Designated Officer” shall mean the Chief Administrative Officer of the Town of Onoway or his delegate.
- (d) “Good Repair” means a condition where something is free from:
 - i. significant damage;
 - ii. peeling surfaces;
 - iii. broken, missing or fallen parts;
 - iv. rot or other significant deterioration;
 - v. openings that are not secured against trespassers or infiltration of air and precipitation;
 - vi. other visual evidence of a lack of general maintenance.

(e) “Junked Vehicle” shall mean a vehicle that:

- (i) the whole or any part of any vehicle or vehicles which are not currently registered with Alberta Motor Vehicle Registries for the current year and/or are inoperative by reason of disrepair, removed parts or missing equipment; and
- (ii) is not located in a structure and does not form part of the business enterprise lawfully being operated on that property.

(f) “Nuisance” shall mean, in the opinion of the Designated Officer or the Municipal Council of the Town of Onoway, any act or deed, practice or thing which is or could be reasonably be considered to be annoying, troublesome, destructive, harmful, inconvenient, unsanitary, unsightly, unsafe or injurious to a person or property.

(g) “Owner”, “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.

(h) “Person” means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative.

(i) “Public Lands” shall mean all lands under the ownership and control of Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of Alberta, or the Town of Onoway.

(j) “Structure” includes but is not limited to any building, retaining wall, scaffolding, garbage container, trailer, mobile home, shed, portable garage, modular homes, manufactured homes and sea containers.

(k) “Town” means the Town of Onoway.

(l) “Unsightly Premises” shall mean any premises being land, structures, improvements to land or personal property located on land within the Town of Onoway, that in the opinion of the Designated Officer or the Council of the Town of Onoway, is unsightly whether or not it detrimentally affects the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Unsightly Premises.

(m) “Municipal Tag” shall mean a tag or similar document issued by the Town pursuant to the Municipal Government Act.

(n) “Violation Ticket” shall mean a ticket issued pursuant to Part II of the Provincial Offences Procedures Act and Regulations there under.

3.2 In this Bylaw, wherever the male gender is specified it shall be interpreted as meaning both male and female as applicable.

IV. PROHIBITIONS

- 4.1 The **Owner** of land shall not cause or allow his land or his use of land to constitute a **Nuisance**.
- 4.2 The **Owner** of land shall not cause or allow his land to be an **Unightly Premise**.
- 4.3 No **Person** shall cause, permit or allow metal or **Junked Vehicles** to collect, accumulate or be upon lands owned or occupied by him, or under his responsibility, or upon **Public Lands** adjoining lands owned or occupied by him, or under his responsibility.
- 4.4 No **Person** shall cause, permit or allow storage in the front yard of any property in a residential area.
- 4.5 It shall be in contravention of this Bylaw and an offence for an **Owner** of land within a residential area as defined by any Bylaw of the **Town** to permit, allow or condone the use of any property within a residential area as defined in the Land Use Bylaw for the storage or 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.
- 4.6 No **Owner** of a premise shall allow a **Structure** or fence to become a safety hazard.
- 4.7 Every **Owner** of a property shall ensure the following are maintained in **Good Repair**:
- (a) Fences
 - (b) **Structures** and their structural members, including:
 - i Foundations and foundation walls
 - ii Exterior walls and their components
 - iii Roofs
 - iv Windows and their casings
 - v Doors and their frames
 - (c) Protective or decorative finishes of all exterior surfaces of a **Structure** or Fence ; and
 - (d) Exterior stairs, landings, porches, balconies and decks.

V. ENFORCEMENT

OFFENCE

- 5.1. A **Person** who contravenes this Bylaw is guilty of an offence.

CONTINUING OFFENCE

- 5.2. 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

- 5.3. 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

- 5.4. (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

- 5.5. (1) The following are minimum fine amounts and are established for use on **Municipal Tags** and **Violation Tickets** if a voluntary payment option is offered.
- (a) \$150.00 for any offence with the exception of Section 5.11;
 - (b) \$500.00 for any offence under Section 5.11;
 - (c) fines double for any similar subsequent offence pertaining to the same property within 12 months of the date of the previous offence.

MUNICIPAL TAG

- 5.6. (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

5.7. 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

5.8. 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

5.9. 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;
- (c) make a voluntary payment equal to the specified fine.

ORDER TO COMPLY

5.10. (1) If the **C.A.O.** believes, on reasonable grounds, that a **Person** is contravening any provision of this Bylaw, the **C.A.O.** may, by written order pursuant to Section 545 of the Municipal Government Act, 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 enactment or bylaw, including the removal or demolition of a **Structure** that has been erected or placed in contravention of this Bylaw and, if necessary, to prevent a re-occurrence of the contravention;
 - (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 at the expense of the **Owner**, the said expense being recoverable pursuant to the provisions of the Municipal Government Act.
- (3) If in the opinion of the **C.A.O.**, any property within the **Town** that is found to be an **Unightly Premise**, the **C.A.O.** may by written order:
- (a) require the **Owner** of the **Unightly Premise** to remove or demolish the **Unightly Premise**;
 - (b) require the **Owner** of the **Unightly Premise** to improve the appearance of the property in the manner specified, or if the property is a **Structure**, to remove or demolish the **Structure** and level the site.
- (4) 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.
- (5) 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.
- (6) 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

5.11 A **Person** shall not obstruct or hinder any **Person** in the exercise or performance of the **Person**'s powers pursuant to this Bylaw.

VI REVIEW PROCESS FOR ORDERS

6.1 The **Council** of the **Town** has the responsibility to review and confirm, vary, substitute or cancel written orders issued under this article.

6.2 An **Owner** who receives a written order under this article may request the **Council** to review the order by written notice within 14 days of the day the order is received.

6.3 An **Owner** affected by the decision of **Council** under Section 6.2 may appeal to the Court of Queen's Bench within 30 days of the date the decision is served on the **Owner**:

- (a) if the procedure required to be followed by the *Municipal Government Act* is not followed, or
- (b) the decision is blatantly unreasonable.

6.4 The application for appeal will state the reasons for the appeal.

6.5 The Court may:

- (a) confirm the decision, or
- (b) declare the decision invalid and send the matter back to **Council** with directions.

VII GENERAL

POWERS OF THE CHIEF ADMINISTRATIVE OFFICER

7.1. Without restricting any other power, duty or function granted by this Bylaw the **C.A.O.** may:

- (a) carry out any inspections to determine compliance with this Bylaw;
- (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

- 7.2. 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

- 7.3. 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.

LIABILITY

- 7.4. The **Town**, any **Designated Officer** or any **Person** who inspects any **Property** under this Bylaw, or any **Person** who performs any work on behalf of the **Town** to remedy a contravention of this Bylaw is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work set out in the order.

ENFORCEMENT OF THIS BYLAW

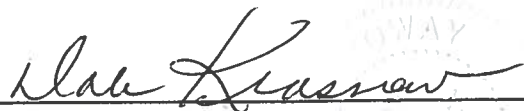
- 7.5. The **Town** is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the **Town** may take into account any practical concerns, including available municipal budget and personnel resources.
- 7.6. Bylaw 529-99 is rescinded in its entirety upon passing of this bylaw.

READ A FIRST TIME THIS 19 DAY JUNE OF, 2015.

READ A SECOND TIME THIS 19 DAY JUNE OF, 2015.

READ A THIRD TIME AND FINALLY PASSED THIS 19 DAY OF, 2015.

TOWN OF ONOWAY

Per: 
Dale Krasnow
Mayor

Per: 
Wendy Wildman
Chief Administrative Officer