

**TOWN OF OYEN
BYLAW NUMBER # 835-14**

Being a Bylaw of The Town of Oyen, in the Province of Alberta, to regulate unsightly and untidy premises;

WHEREAS

The *Municipal Government Act S.A. 2000 C-M26 Section 7(c)*, a Council of the Town may pass bylaws for municipal purposes respecting nuisances, including unsightly property;

THEREFORE

THE COUNCIL OF THE TOWN OF OYEN, IN THE PROVINCE OF ALBERTA, ENACTS AS FOLLOWS:

SECTION 1: SHORT TITLE

1. This bylaw may be called the "Unsightly Property Bylaw".

SECTION 2: DEFINITIONS

2. For the purposes of this Bylaw, the following words mean:

(1) "**Act**" means the Municipal Government Act, S.A. 2000 C-M26, as amended.

(2) "**Board**" means the Town's Subdivision and Development Appeal Board.

(3) "**Bylaw Enforcement Officer**", for the purposes of this bylaw, means a person appointed by the Council to do any act or perform any duties under this Bylaw and includes a member of the Royal Canadian Mounted Police, an independent contractor who is under contract with the Municipality to provide a bylaw enforcement services and, when authorized, a Special Constable.

(4) "**Council**" means the Municipal Council of the Town of Oyen.

(5) "**Direction**" means a written direction in accordance with Section 5 of this Bylaw.

(6) "**Designated Officer**" means a designated officer in accordance with the **Act**.

(6) "**Order**" mean a written order in accordance with subsection 546(1)(c) of the **Act**.

(7) "**Owner**" means:

(a) in respect of land, the person who is registered under the Land Titles Act as the owner of the fee simple estate in the land, and

(b) in respect of Property other than land, the person in lawful possession of it.

(8) "**Property**" means:

(a) a parcel of land,
(b) a Structure, or
(c) a parcel of land and any Structures located thereon.

(8.1) "**Residential Property**" means any Property that is solely used for residential purposes, and includes a

residential dwelling that contains a home occupation business and a residential dwelling that is under construction.

(9) “**Town**” means the Municipal Corporation of the Town of Oyen.

(10) “**Structure**” means a building or other thing erected or placed in, on, over or under land, whether or not it is so affixed to the land as to become transferred without special mention by a transfer or sale of the land.

(11) “**Unsightly Property**” means Property described in section 3 of this bylaw.

SECTION 3: UNSIGHTLY PROPERTY

1. Unsightly Property is Property that, in the opinion of a Bylaw Enforcement Officer, is detrimental to the surrounding area because of its unsightly condition.

2. Some factors which may be considered by a Bylaw Enforcement Officer in determining whether the Property is Unsightly Property include the following:

(1) the failure to cut grass or weeds,

(2) the failure to destroy restricted weeds, control noxious weeds, or prevent the spread or scattering of nuisance weeds,

(3) the presence of trees, shrubs or other vegetation in such a manner that they interfere with the use of or obstruct the visibility of street signage, sidewalks, roadway clearance, municipal works or public utilities,

(4) the use of any pesticide or herbicide which has significant detrimental or environmental effects on surrounding areas,

(5) the failure to control or eliminate insect pests harmful to the growth and development of trees and shrubs or any vegetable or plant life,

(6) the storage or accumulation of dilapidated vehicles or the storage of vehicles in excess of the number of vehicles permitted under the Land Use Bylaw,

(7) the storage or accumulation of or failure to dispose of discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, and motor vehicle parts,

(8) the failure to dispose of any rubbish or garbage accumulated upon any property,

(9) the specific or general lack of repair or maintenance including but not limited to:

(a) significant deterioration of Structures or portions of Structures,

(b) broken or missing windows, siding, shingles, shutters, eaves or other building materials,

(c) significant fading, chipping or peeling of painted areas of Structures,

(d) exterior doors or windows in a Structure that do not operate as they were intended to or do not fit tightly within their frames when closed,

(e) exterior doors, windows or openings in a Structure that are not properly constructed or maintained so as to completely exclude rain,

(f) exterior doors, windows or other openings in a Structure that are covered with wood where the wood is not:

i. installed from the exterior and fitted within the frame of the opening in a watertight manner;

ii. of a thickness sufficient to prevent unauthorized entry to the Structure; or

iii. secured in a manner sufficient to prevent unauthorized entry to the Structure.

(g) the location, zoning, use and visibility of Property.

3. Subsection (2) is not intended to be an exhaustive list of factors which may be considered in determining whether Property is Unsightly Property.

SECTION 4: PROVISIONS

1. (1) No person being the owner, agent of the owner, lessee or occupier of any Property within the Town shall permit such Property, or the activities upon such property to be or remain an Unsightly Property.

(2) No person shall place, deposit or throw or cause to be placed, deposited or thrown upon any Town property, including any street, lane, sidewalk, parking lot, park, or other public place or water course:

(a) a cardboard or wooden box, carton, container, or receptacle of any kind,

(b) a paper, wrapper, envelope, or covering of any kind, whether paper or not, from food or confectionery,

(c) paper of any kind, whether or not containing written or printed matter thereon,

(d) any human, animal or vegetable matter or waste;

(e) any glass, crockery, nails, tacks, barbed-wire or other breakable or sharp objects,

(f) scrap metal, scrap lumber, tires, dismantled wrecked or dilapidated motor vehicles or parts therefrom,

(g) any motor vehicle or any part of any motor vehicle which may, in whole or in part, obstruct any highway, street, lane, alley, bi-way or other public place,

(h) dirt, filth or rubbish of any kind whether similar or dissimilar to the foregoing.

(3) A person who has placed, deposited or thrown or caused to be placed or thrown anything or any matter mentioned in subsection (1) upon any street, lane, sidewalk, parking place, park, or other public place or water course shall forthwith remove it.

(4) The Bylaw Enforcement Officer may authorize any Town employee, or other person, to remove and put in storage or destroy anything placed upon Town property in contravention of Section 3 and 4 of this bylaw.

SECTION 5: DIRECTION

(1) If a Bylaw Enforcement Officer forms the opinion that Property is Unsightly Property, the Bylaw Enforcement Officer may issue a written Direction to the Owner or occupier of the Property. The Direction may require the Owner or occupier of the Unsightly Property to improve the appearance of the Property in the manner specified and may state a time within which the person must comply with the Direction.

SECTION 6: ORDERS

(1) If, in the opinion of a Designated Officer, Property is detrimental to the surrounding area because of its unsightly condition, the Designated Officer may issue a written Order in accordance with subsection 546(1)(c) of the *Act*.

SECTION 7: TOWN MAY REMEDY UNSIGHTLY CONDITION OF PROPERTY

(1) If an order has been issued, the Town may take whatever actions or measures are necessary to:

(a) deal with the unsightly condition of Property in accordance with section 550 of the *Act*, and

(b) collect any unpaid costs or expenses incurred by the Town in accordance with the *Act*.

The costs and expenses of the actions or measures taken by the Town are charged in addition to any penalty imposed under this Bylaw.

SECTION 8: REVIEW OF ORDERS

(1) Council hereby delegates its power to review Orders under section 547 of the *Act* to the Board.

(2) A person who receives an Order may request the Board to review the Order by written notice delivered to the following address:

Chief Administrative Officer
PO Box 360
Oyen, Alberta
T0J 2J0

Within 7 days of the date the Order is received.

SECTION 9: DECISION OF BOARD

(1) After reviewing the Order, the Board may confirm, vary, substitute or cancel the Order in accordance with subsection 547(2) of the *Act*.

SECTION 10: APPEAL TO COURT

(1) A person affected by the decision of the Board under section 9 may appeal to the Court of Queen's Bench in accordance with section 548 of the *Act*.

SECTION 10: INSPECTION

(1) A Designated Officer may inspect Property in accordance with section 542 of the Act for the purposes of determining whether:

- (a) Property is Unsightly Property under this Bylaw,
- (b) Property, because of its unsightly condition is detrimental to the surrounding area in accordance with section 546 of the Act,
- (c) there has been compliance with a Direction issued under section 5 of the Bylaw, or
- (d) there has been compliance with an Order issued in accordance with subsection 546(1) of the *Act*.

SECTION 11: OFFENCE

(1) A person who fails to comply with:

- (a) a Direction issued in accordance with section 5, or
- (b) an Order issued in accordance with subsection 546(1)(c) of the Act,

within the time specified therein is guilty of an offence.

(2) Each day, or part of a day, that an offence under this Bylaw continues constitutes a separate offence.

SECTION 12: PENALTY

(1) If a Bylaw Enforcement Officer believes on reasonable and probable grounds that an offence has been committed under section 11 of this Bylaw, a summons under the Provincial Offences Procedures Act, RSA 2000, Chapter P-34 may be issued by means of a violation ticket in respect of an alleged contravention, and the penalty payable upon conviction in a court of competent jurisdiction shall be:

(a) In the case of a Residential Property:

- (i) not less than \$500.00 nor more than \$1,000.00 for a first offence by that person; and
- (ii) not less than \$1,000.00 nor more than \$10,000.00 for any subsequent offence by that person; or

(b) In the case of a Non-Residential Property:

- (i) not less than \$1,000.00 nor more than \$10,000.00 for a first offence by that person; and
- (ii) not less than \$2,000.00 nor more than \$10,000.00 for any subsequent offence by that person.

SECTION 13: ENFORCEMENT OF THIS BYLAW

(1) 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.

SECTION 14: REPEAL

(1) Bylaw #588 is hereby repealed.

SECTION 15: COMING INTO FORCE

(1) This Bylaw shall come into effect on the third and final reading.

Read a first time this 14th day of May, 2014.

Read a second time this 11th day of June, 2014.

Read a third and final time this 11th day of June, 2014.

Signed this 11th day of June, 2014.



MAYOR



CHIEF ADMINISTRATIVE OFFICER