

CYPRESS COUNTY

BYLAW 2010/23

A Bylaw of Cypress County to promote the maintenance of property and to address Unsightly Property within Cypress County

WHEREAS the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta 2000, and amendments thereto, authorizes municipalities to deal with Unsightly Property.

NOW THEREFORE, the Council of Cypress County, in the Province of Alberta, duly assembled, enacts as follows:

SHORT TITLE

1. This Bylaw may be cited as the “Unsightly Property Bylaw”.

DEFINITIONS

2. For the purposes of this Bylaw:
 - (a) “Act” means the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta 2000, and amendments thereto.
 - (b) “County” means the municipal corporation of Cypress County pursuant to the laws of the Province of Alberta.
 - (c) “Council” means the Municipal Council of Cypress County.
 - (d) “Councillor” means an individual member of Council
 - (e) “Designated Officer” means a designated officer in accordance with the Act.
 - (f) “Direction” means a written direction in accordance with Section 4 of this Bylaw.
 - (g) “Enforcement Officer” shall mean such person or persons as the County may designate for the purposes of enforcement of this bylaw, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.
 - (h) “Improvement” means:
 - (i) a structure,
 - (ii) any thing attached or secured to a structure, that would be transferred without special mention by a transfer or sale of the structure,
 - (iii) a mobile unit, and
 - (iv) machinery and equipment.

- (i) “Order” means a written order in accordance with the Act.
- (j) “Owner” means:
 - (i) a Person who is registered under the Land Titles Act as the owner of the land;
 - (ii) a Person who is recorded as the owner of the Property on the tax assessment roll of Cypress County;
 - (iii) a Person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not yet become the registered owner thereof;
 - (iv) a Person holding himself out as the person having the powers and authority of ownership of the Property or who for the time being exercises the powers and authority of ownership;
 - (v) a Person controlling the Property under construction; or
 - (vi) a Person who is the occupant of the Property pursuant to a lease agreement, license or permit.
- (k) “Person” means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- (l) “Property” means:
 - (i) a parcel of land,
 - (ii) an improvement, or
 - (iii) a parcel of land and the improvements to it.
- (m) “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.
- (n) “Unsightly Property” means property described in Section 3 of this Bylaw.

UNSIGHTLY PROPERTY

- 3. (1) Unsightly Property is property that
 - (a) in the opinion of an Enforcement Officer is detrimental to the surrounding area because of its unsightly condition due to the presence of uncut grass or weeds, or
 - (b) in the opinion of a three member committee of council, is detrimental to the surrounding area because of its unsightly condition due to factors other than uncut grass or weeds.

- (i) If an Enforcement Officer views a property that appears unsightly or receives a complaint of an unsightly property, the Officer will bring to a committee of Council, the complaint along with other information and the committee will decide whether the property is unsightly or not
 - (ii) The Council will annually appoint by resolution, three of its members and an alternate to the committee for this purpose. If the complaint is within the electoral division of a committee member then that member will be replaced by the alternate.
- (2) Some factors which may be considered by the committee in determining whether property is Unsightly Property include the following:
 - (a) the presence of uncut grass or weeds,
 - (b) the presence of trees, shrubs or other vegetation in such a manner that they interfere with the use of or obstruct visibility of signage, roads, sidewalks, roadway clearance, municipal works or public utilities,
 - (c) the presence of wrecked or dismantled vehicles, including vehicles that are inoperable and unregistered, (For clarity, a registered vehicle must have attached to it the corresponding license plate with a current year sticker attached),
 - (d) the storage or accumulation of garbage, litter, refuse (including but not limited to building materials, tires, boxes, scrap material), equipment, dilapidated furniture or appliances, machinery, machinery parts or other similar materials or items,
 - (e) specified or general lack of repair or maintenance including but not limited to:
 - (i) significant deterioration of improvements or portions of improvements;
 - (ii) broken or missing windows, siding, shingles, shutters, eaves or other building materials; or
 - (iii) significant fading, chipping or peeling of painted areas of improvements,
 - (f) the location, land use designation, 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.

DIRECTION

- 4. If an Enforcement Officer or the committee forms the opinion that property is Unsightly Property, the 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.

ORDERS

5. If, in the opinion of an Enforcement Officer or the committee, property is detrimental to the surrounding area because of its unsightly condition, the Designated Officer may issue a written Order in accordance with the Act.

REMEDYING THE UNSIGHTLY CONDITION OF PROPERTY

6.
 - (1) If an Order has been issued, the County may take whatever actions or measures necessary to deal with the unsightly condition of property and collect any unpaid costs or expenses incurred by the County in accordance with the Act.
 - (2) The costs and expenses of the actions or measures taken by the County are charged in addition to any penalty imposed under this Bylaw.

INSPECTION

7. An Enforcement Officer, Designated Officer, or Councillor may inspect property in accordance with the Act for the purposes of determining whether:
 - (1) property is Unsightly Property under this Bylaw, or
 - (2) property, because of its unsightly condition is detrimental to the surrounding area in accordance with the Act, or
 - (3) there has been compliance with a Direction issued under Section 4 of this Bylaw, or
 - (4) there has been compliance with an Order issued in accordance with the Act.

OFFENCE

8. A person who fails to comply with:
 - (1) a Direction issued in accordance with Section 4 of this Bylaw, or
 - (2) an Order issued in accordance with the Act, within the time specified therein, is guilty of an offence.

PENALTY

9.
 - (1) If an Enforcement Officer or Designated Officer believes on reasonable and probable grounds that an offence has been committed under Section 8 of this Bylaw, a Violation Tag may be issued in respect of an alleged contravention, and the specified penalty payable shall be:

- (a) \$250.00 for a first offence by that person, and
 - (b) \$500.00 for any subsequent offence by that person.
- (2) A Violation Tag shall not be issued without the prior review and approval of the committee of three Councillors, except for an unsightly condition due only to the presence of uncut grass or weeds.
- (3) A Violation Tag shall be served upon such person personally, or by leaving it with a person on the property who has the appearance of being at least eighteen (18) years of age, or by mailing a copy to such person by registered mail.
- (4) The Violation Tag shall be in a form approved by the County and shall state:
- (a) the name and address of the owner of the property;
 - (b) a description of the property;
 - (c) the offence;
 - (d) the appropriate penalty for the offence as specified in subsection (1);
 - (e) that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag; and
 - (f) any other information as may be required by the County.
- (5) Where a contravention of this bylaw is of a continuing nature, further Violation Tags may be issued by an Enforcement Officer, provided that no more than one Violation Tag shall be issued each day that a contravention of this bylaw continues.
- (6) Where a Violation Tag is issued pursuant to this bylaw, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the County the penalty specified on the Violation Tag.
- (7) If the penalty specified on a Violation Tag is not paid within the prescribed time period an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket or swear an Information or Complaint for a mandatory Court appearance.
- (8) Nothing in this bylaw shall prevent an Enforcement Officer from immediately issuing a Violation Ticket or swearing an Information or Complaint for the mandatory Court appearance of any person who contravenes any provision of this bylaw.

ENFORCEMENT OF THIS BYLAW

- 10. (1) The County is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the County may take into account any practical concerns including available municipal budget and personnel resources.
- (2) This Bylaw shall apply only to property located in Hamlets and country residential subdivisions.

COMING INTO FORCE

- 11. Bylaw 2010/08 is hereby rescinded
- 12. This Bylaw comes into force on the day that it is finally passed.

Read a first time this 15th day of June, 2010.

Read a second time this 15th day of June, 2010.

Read a third time and finally passed this 20th day of July, 2010.

Reeve

Designated Officer