

BYLAW NO. 3117

CONSOLIDATION OF A BYLAW OF THE CITY OF MEDICINE HAT to promote the maintenance of Property and to address Unsightly Property within the City of Medicine Hat.

WHEREAS the *Municipal Government Act*, S.A. 1994, c.M-26.1 authorizes municipalities to deal with Unsightly Property.

NOW THEREFORE THE MUNICIPAL CORPORATION OF THE CITY OF MEDICINE HAT, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

NAME OF BYLAW

1. This Bylaw may be cited as the "Unsightly Property Bylaw".

DEFINITIONS

2. For the purposes of this Bylaw, the following words mean:
 - (1) "**Act**" means the *Municipal Government Act*, S.A. 1994, c.M-26.1, as amended.
 - (2) "**Board**" means the City's Subdivision and Development Appeal Board.
 - (3) "**Bylaw Enforcement Officer**" means a person appointed as a Bylaw Enforcement Officer pursuant to City of Medicine Hat Bylaw No. 2463, and also includes any peace officer, police officer or special constable employed by the City's Police Service.
 - (4) "**City**" means the Municipal Corporation of the City of Medicine Hat.
 - (5) "**Council**" means the Municipal Council of the City.
 - (6) "**Designated Officer**" means a designated officer in accordance with the *Act*.
 - (7) "**Direction**" means a written direction in accordance with section 5 of this Bylaw.
 - (8) "**Non-Residential Property**" means all Property that is not Residential Property
 - (9) "**Order**" means a written order in accordance with subsection 546(1)(c) of the *Act*.
 - (10) "**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

Amended by:
Bylaw 4031
May 17, 2011

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

Amended by:
Bylaw 4031
May 17, 2011

(11) **“Property”** means:

- (i) a parcel of land,
- (ii) a Structure, or
- (iii) a parcel of land and any Structures located thereon.

Amended by:
Bylaw 4031
May 17, 2011

(11.1) **“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.

(12) **“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.

(13) **“Unsightly Property”** means Property described in section 3 of this Bylaw.

UNSIGHTLY PROPERTY

3. (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 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 street signage, sidewalks, roadway clearance, municipal works or public utilities,
- (c) the presence of wrecked or dismantled vehicles, including vehicles that are inoperable and unregistered,
- (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,

Amended by:
Bylaw 4031
May 17, 2011

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

- (i) significant deterioration of Structures or portions of Structures;

- (ii) broken or missing windows, siding, shingles, shutters, eaves or other building materials;
 - (iii) significant fading, chipping or peeling of painted areas of Structures;
 - (iv) 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;
 - (v) exterior doors, windows or openings in a Structure that are not properly constructed or maintained so as to completely exclude rain;
 - (vi) exterior doors, windows or other openings in a Structure that are covered with wood where the wood is not:
 - a. installed from the exterior and fitted within the frame of the opening in a watertight manner;
 - b. of a thickness sufficient to prevent unauthorized entry to the Structure;
 - c. secured in a manner sufficient to prevent unauthorized entry to the Structure; or
 - d. coated with an opaque protective finish that is similar in colour to the colour of the Structure;
 - (f) 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.

DIRECTION

5. 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.

ORDERS

6. 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**.

CITY MAY REMEDY UNSIGHTLY CONDITION OF PROPERTY

7. If an order has been issued, the City 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 City in accordance with the **Act**.

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

REVIEW OF ORDERS

- 8. Council hereby delegates its power to review Orders under section 547 of the **Act** to the Board.
- 9. A person who receives an Order may request the Board to review the Order by written notice delivered to the following address:

The City Clerk
Office of the City Clerk
Second Floor, City Hall
580 First Street S.E.
Medicine Hat, AB T1A 8E6

within 7 days of the date the Order is received.

Amended by:
Bylaw 4031
May 17, 2011

DECISION OF BOARD

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

APPEAL TO COURT

- 11. A person affected by the decision of the Board under section 10 may appeal to the Court of Queen's Bench in accordance with section 548 of the **Act**.

INSPECTION

- 12. 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 this Bylaw, or

- (d) there has been compliance with an Order issued in accordance with subsection 546(1)(c) of the **Act**.

OFFENCE

13. 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.

Amended By: 13.1 Each day, or part of a day, that an offence under this Bylaw continues constitutes a separate offence.
Bylaw 4031
May 17, 2011

PENALTY

Amended By: 14. If a Bylaw Enforcement Officer believes on reasonable and probable grounds that an offence has been committed under section 13 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 \$250.00 nor more than \$400.00 for a first offence by that person; and
 - (ii) not less than \$500.00 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 \$500.00 nor more than \$1,000.00 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.

ENFORCEMENT OF THIS BYLAW

15. The City is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the City may take into account any practical concerns, including available municipal budget and personnel resources.

REPEAL

16. The Minimum Maintenance Standards Bylaw, Bylaw No. 1864, is repealed.

COMING INTO FORCE

17. This Bylaw comes into force at the beginning of the day that it is passed.

READ A FIRST TIME in open Council on February 17, 1998.

READ A SECOND TIME in open Council on March 2, 1998.

READ A THIRD TIME in open Council on March 2, 1998.

SIGNED AND PASSED on March 3, 1998.

I HEREBY CERTIFY that this is a true and correct copy of Bylaw No. 3117 consolidated pursuant to Section 69 of the Municipal Government Act to incorporate all subsequent amendments thereto, printed under the authority vested in me by the said Section 69 and by City of Medicine Hat Bylaw No. 1957.

CERTIFIED THIS _____ DAY OF _____, 20____ .

ANGELA CRUICKSHANK
MUNICIPAL SECRETARY AND CITY CLERK
CITY OF MEDICINE HAT