

BYLAW NO. 3679

A BYLAW OF THE CITY OF MEDICINE HAT to regulate graffiti and activities in relation to graffiti.

WHEREAS the *Municipal Government Act*, authorizes municipalities to pass bylaws respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the Municipal Government Act authorizes a municipality to pass bylaws respecting nuisances, including 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 "Graffiti Bylaw".

DEFINITIONS

2. For the purposes of this Bylaw the following words have the following definitions:
 - (a) "Bylaw Enforcement Officer" means any person employed by the City of Medicine Hat as a police officer, bylaw enforcement officer or special constable.
 - (b) "Graffiti" means words, figures, letters or drawings scribbled, scratched, painted, sprayed, written, drawn, or otherwise applied on Premises without the consent of the owner of the Premises;
 - (c) "Premises" includes anything constructed or placed on, in or over land.

GRAFFITI PREVENTION AND ABATEMENT

3.
 - (1) No person shall apply Graffiti.
 - (2) Every owner or occupier of Premises shall ensure that Graffiti applied on the Premises is removed, painted over, or otherwise permanently blocked from public view within seven (7) days of receiving written notice from a Bylaw Enforcement Officer.
 - (3) Everyone who, without lawful excuse, the proof of which lies on him, has in his possession any instrument suitable for the purpose of applying graffiti under circumstances that give rise to a reasonable inference that the instrument has been used or is or was intended to be used for any such purpose, is guilty of an offence.
 - (4) In a prosecution for an offence under subsection (1) or (2), if the defendant seeks to rely on the graffiti being made with the consent of the owner of the Premises, the onus of proving the owner's consent rests with the person relying on consent.

PENALTIES

4. (1) Where a Bylaw Enforcement Officer believes on reasonable and probable grounds that a person has contravened any provision of this Bylaw he may commence proceedings by issuing a summons by means of a violation ticket in accordance with Part 2 of the Provincial Offences Procedure Act R.S.A. 2000 c. P-34.
- (2) The specified penalty payable in respect of a contravention of this Bylaw is the amount set out in Schedule "A".
- (3) Pursuant to section 27(2)(d) of the *Provincial Offences Procedure Act*, if the summons issued by a Bylaw Enforcement Officer under subsection (1) so provides, the person named in the summons may make a voluntary payment in the specified amount set out in Schedule "A" of this Bylaw, and upon making the voluntary payment, that person is not required to appear before a justice to answer the summons.
- (4) A person who contravenes subsection 3(1) of this Bylaw is guilty of an offence and liable upon conviction to pay a fine of not less than one thousand (\$1,000) dollars and not more than ten thousand (\$10,000) dollars, or in default of payment to imprisonment for a period of not more than six (6) months.
- (5) A person who contravenes subsection 3(2) of this Bylaw is guilty of an offence and liable upon conviction to pay a fine of not less than fifty (\$50) dollars and not more than five hundred (\$500) dollars, or in default of payment to imprisonment for a period of not more than thirty (30) days.
- (6) A person who contravenes subsection 3(3) of this Bylaw is guilty of an offence and liable upon conviction to pay a fine of not less than five hundred (\$500) dollars and not more than two thousand (\$2,000) dollars, or in default of payment to imprisonment for a period of not more than two (2) months.

COMING INTO FORCE

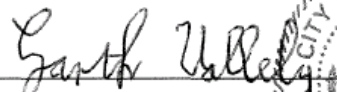
5. This Bylaw will come into force on July 1, 2006.

READ A FIRST TIME in Open Council on April 17, 2006

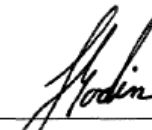
READ A SECOND TIME in Open Council on May 1, 2006

READ A THIRD TIME in Open Council on May 1, 2006

SIGNED AND PASSED on May 2, 2006


MAYOR – GARTH VALLEY




CITY CLERK – LARRY P. GODIN

SCHEDULE "A"**SPECIFIED PENALTIES**

<u>Subsection</u>	<u>Offence</u>	<u>Amount</u>
3(1)	Applying Graffiti	\$ 2,500.00
3(2)	Failing to remove, paint over or otherwise permanently block Graffiti from public view	\$ 50.00
3(3)	Possession of Graffiti instrument	\$ 1,000.00

IN THE EVENT OF A PROSECUTION OF A YOUNG PERSON, IF THE *YOUTH JUSTICE ACT* (ALBERTA) SETS A MAXIMUM FINE THAT MAY BE IMPOSED AGAINST A YOUNG PERSON WHICH IS LOWER THAN AN AMOUNT STATED IN THIS SCHEDULE "A", THE MAXIMUM AMOUNT STATED IN THE *YOUTH JUSTICE ACT* SHALL APPLY.