

TOWN OF CHESTERMERE

PROVINCE OF ALBERTA

BYLAW #013-11

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

AND WHEREAS the Municipal Government Act authorizes a municipality to pass bylaws respecting nuisances, including unsightly property;

AND WHEREAS the Municipal Government Act authorizes a municipality to pass bylaws regarding the remedying of contraventions of bylaws;

NOW THEREFORE THE COUNCIL OF THE Town of Chestermere ENACTS AS FOLLOWS:

1. Title

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

2. Interpretation

(1) In this Bylaw:

(a) "Automobile Parts" includes, but is not limited to, any vehicle part or collection of vehicle parts, or one or more vehicles that are dilapidated, derelict or not in operable condition;

(b) "Building materials" means all construction or demolition material accumulated on a property while construction, alteration, repair, or demolition of anything on the property is taking place, will take place, or has taken place, and includes but is not limited to earth, vegetation, or rock displaced during such activities;

(c) "CAO" means the Chief Administrative Officer of Chestermere, Alberta appointed by Council, or his designate;

(d) "Council" means the Town of Chestermere elected Council;

(e) "Fence" includes but is not limited to a privately-built fence, and/or a developer-built community screening fence;

(f) "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. other visual evidence of a lack of general maintenance.

(g) "Land Use Bylaw" means the Town of Chestermere Land Use Bylaw 022-10, as amended or repealed and replaced from time to time;

(h) "Lane" means a road which provides a secondary means of vehicle access to a property, and is located to the rear and/or side of the property. This applies to both private roads within a condominium development, and public highways;

(i) "Municipal Government Act (MGA)" means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended or repealed and replaced from time to time;

(j) "Owner" means:

- i) a person who is registered under the Land Titles Act as the owner of a parcel of land; or
- ii) a person who is recorded as the owner of a property on the tax assessment roll of the Town of Chestermere; or
- iii) a person who has purchased or otherwise acquired a parcel of 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; or
- iv) a person holding himself out as the person having the powers and authority of ownership of a property or premises or who for the time being exercises the powers and authority of ownership; or
- v) a person in possession or control of a property or premises under construction;



(k) "Peace Officer" shall mean a member of a Police Service, or a Peace Officer appointed pursuant to the Peace Officer Act, S.A. 2006, c. P-3.5 and the regulations thereof, as amended or replaced from time to time;

(l) "Person" shall mean any individual, firm partnership, association, corporation, company or society;

(m) "Premises" includes the external surface of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings;

(n) "Provincial Offences Procedure Act (POPA)" means the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, and the regulations thereof, as amended or replaced from time to time;

(o) "Public lands" means all lands under the ownership and control of the Federal Government, Provincial Government, or the Town;

(p) "Remedial Order" means an order written pursuant to Section 546 of the Municipal Government Act;

(q) "Structure" includes but is not limited to any building, garage, shed, fence, retaining wall, scaffolding, garbage container, trailer, mobile home, portable shack, or any other improvement erected or placed in, on, over, or under land, whether or not it is affixed to the land;

(r) "Town" means the Town of Chestermere, a municipal corporation, in the Province of Alberta and where the context so requires, means the area contained within the corporate boundaries of the said Town;

(s) "Unpleasant odour" means the emanation of odours which disturb, injure, endanger, or detract from the comfort, enjoyment, health, or safety of another person in the Town;

(t) "Work Forces" includes employees of The Town and Persons under contract to The Town.

3. Application

(1) The owner of any property, as registered on title at the Land Titles Office, or the owner who is recorded on the tax assessment roll of the Town of Chestermere is ultimately responsible for all activities on the property which may constitute prohibitions of this Bylaw.

(2) Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or licence.

(3) Any heading, sub-headings, or tables of contents in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.

(4) Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefore.

(5) All the schedules attached to this Bylaw shall form a part of this Bylaw.

(6) This bylaw is gender-neutral and, accordingly, any reference to one gender includes the other.

4. Remedial Orders

(1) Every remedial order written with respect to this Bylaw shall:

(a) indicate the person to whom it is directed;

(b) identify the property to which the remedial order relates by municipal address or legal description;

(c) identify the date that it is issued;

(d) identify how the premises fails to comply with this or another bylaw;

(e) identify the specific provisions of the Bylaw the premises contravenes;

(f) identify the nature of the remedial action required to be taken to bring the premises into compliance;

(g) identify the time within which the remedial action must be completed;

(h) indicate that if the required remedial action is not completed within the time specified, the Town may take whatever action or measures are necessary to remedy the contravention;

(i) indicate that the expenses and costs of any action or measures taken by the Town under this Section are an amount owing to the Town by the person to whom the order is directed;

(j) indicate that the expenses and costs referred to in this section may be attached to the tax roll of the property if such costs are not paid by a specified time;

(k) indicate that the remedial order may be appealed to the Town, if a notice of appeal is filed in writing with the Town within seven (7) days of the receipt of the remedial order.

(2) A remedial order written pursuant to this Bylaw shall be served on the owner by:

(a) delivering the order personally to the owner of the premises to which it relates; or

(b) leaving the order for the owner at the premises with a person who appears to be at least 18 years of age; or

(c) posting the order in a conspicuous place on the premises to which the remedial order relates, or on the private dwelling place of the owner of the premises, as registered at the Land Titles Office or on the municipal tax roll for the premises. The remedial order shall be deemed to be served upon the expiry of three (3) days after the remedial order is posted; or

(d) sending the order registered mail to the last known address of the owner, and the remedial Order shall be deemed to be served upon confirmation of receipt of the registered mail; or

(e) sending the order regular mail to the last known address of the owner, and the remedial order shall be deemed to be served seven (7) days after the date of mailing.

(3) Every person who fails to comply with a remedial order issued pursuant to this Bylaw within the time set out in the remedial order commits an offence.

5. Appeal of Remedial Orders

(1) A Person to whom a remedial order is directed may seek a review of the remedial order by filing a request for review form in writing with the Town within seven (7) days of the receipt of the remedial order and paying a one hundred dollar (\$100.00) administrative fee.

(2) An appeal filed pursuant to this Section must state the name of the appellant, the municipal address of the property to which the remedial order being appealed from relates, a day time telephone contact number at which the appellant may be reached, and an address at which documents in relation to the appeal may be delivered.

(3) Upon review of the remedial order Council may confirm, vary, substitute, or cancel the Order.

(4) Council may provide their decision orally or in writing to the recipient.

(5) If a decision is in writing the CAO may serve the decision to the recipient in the same manner as a remedial order in section 4(2).

(6) In the event that a request for review of a remedial order is received after the applicable deadline, no review will be scheduled and the person requesting the review will be informed that no review will be scheduled.

6. Untidy Properties

(1) The standards, requirements and prohibitions contained in this part shall apply to all premises' located within the Town.

(2) No owner or occupant of a premises shall allow on the premises, the accumulation of:

(a) any material that creates unpleasant odours;

(b) any material likely to attract pests; or

(c) animal remains, parts of animal remains, or animal feces.

(3) No owner or occupant of a premises shall allow the open or exposed storage on the premises of any industrial fluid, including but not limited to engine oil, brake fluid, gasoline, or antifreeze.

(4) No owner or occupant of a premises shall allow the following to accumulate on the premises such that the accumulation is visible to a Person viewing from outside the property:

(a) loose garbage;

(b) bottles, cans, boxes or packaging materials;

(c) Household furniture or other household goods;

(d) Automobile Parts;

(e) Parts of or disassembled machinery, equipment or appliances; and

(f) Yard waste, including but not limited to grass, tree and hedge cuttings but excluding the contents of a Composting Pile.

(5) No owner or occupant of a premises shall allow any appliance to remain on the Premises such that the appliance is visible to a Person viewing from outside the property.

14

(6) No owner or occupant of a premises shall allow grasses or weeds on the Premises to exceed a height of 15 centimetres.

(7) Owners or occupants of a premises shall be responsible for cutting the grass on the boulevards and lanes adjacent or abutting their property.

(8) Subsection 6 shall not apply to public lands, or areas defined in the land use bylaw as large lot rural residential district, rural residential district, or urban transition.

(9) No owner or occupant of a premises shall allow trees, hedges or shrubs to overhang an adjacent highway or sidewalk in a manner that interferes with vehicular or pedestrian traffic.

(10) No owner or occupant of a premises shall allow a drainage swale on their premises to become partially or completely blocked by any material.

7. Obligation to Maintain Structures

(1) No owner or occupant of a premises shall allow a structure or fence to become a safety hazard.

(2) Every owner or occupant of a premises shall ensure the following are maintained in Good Repair:

(a) Fences and their structural members;

(b) Structures and their structural members, including but not limited to:

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.

8. Outdoor Storage of Building Materials

(1) No owner or occupant of real property shall allow on the premises the accumulation of building materials, whether new or used, unless that owner can establish that a construction or renovation undertaking is being carried out on the premises and that:

(a) the project has begun or the beginning of work is imminent;

(b) the materials found on the premises relate to the project taking place on the Premises in a quantity reasonable to complete the project; and

(c) the work on the project has not been suspended for a period in excess of one-hundred and twenty days; and

(2) The owner or occupant of a premises shall ensure that all building materials stored on a premises, that are not in contravention of section 8(1), are stacked or stored in an orderly manner;

(3) Notwithstanding anything in this part, it shall not be an offence to store a small amount of neatly stacked materials on a premises for basic property maintenance.

9. Enforcement

(1) A Peace Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, enter in or upon any property, in accordance with Section 542 of the Municipal Government Act, to carry out an inspection, enforcement, or other action required or authorized by this Bylaw, the Municipal Government Act, or any other applicable statute.

(2) A Peace Officer shall provide the Owner of the property with forty-eight hours notice when exercising his authority to enter onto property for inspection or enforcement. This shall be deemed reasonable notice as required by the Municipal Government Act.

(3) No person shall interfere with or obstruct a Peace Officer, or Work Forces performing an investigation or other duties pursuant to this bylaw.

10. Penalties

(1) Every person who contravenes any of the provisions of this Bylaw by doing any act or thing which the person is prohibited from doing is guilty of an offence.

(2) Any person who is convicted of an offence pursuant to this Bylaw is liable on summary conviction to a fine not exceeding \$10,000.00.

(3) Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the specified penalty for the offence.

(4) Where there is a minimum penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum penalty for the offence.

(5) The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a Person from the necessity of paying any fees, charges or costs from which that Person is liable under the provisions of this Bylaw or any other bylaw.

11. Violation Tickets

(1) Where a Peace Officer believes that a person has contravened any provision of this Bylaw, he may commence proceedings by issuing a violation ticket in accordance with the Provincial Offences Procedure Act.

(2) This Section shall not prevent any officer from issuing a violation ticket requiring the court appearance of the defendant, pursuant to the provisions of the Provincial Offences Procedure Act, or from laying an information instead of issuing a violation ticket.

12. Designated Officers

(1) Peace Officers as defined in this bylaw are hereby appointed as a designated officer for the purposes of sections 542, 545, and 546 of the Municipal Government Act.

13. Severability

(1) If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Section or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.



That Bylaw No. 2002-206/1 is hereby rescinded.

That this Bylaw shall come into full force and effect upon the date of the third and final reading.

Read a first time this 6th June 2011

Read a second time this 6th June 2011

Read a third time and passed this 6th June 2011

MAYOR



CHIEF ADMINISTRATIVE OFFICER

Resolution number

Schedule "A"

Section	Offence	Minimum Penalty	Specified Penalty
4(3)	Failure to comply with remedial order	\$250.00	\$500.00
6(2)	Accumulation of offensive material	\$150.00	\$250.00
6(3)	Exposed storage of harmful fluids	\$150.00	\$250.00
6(4)	Accumulation of material visible from off property	\$150.00	\$250.00
6(5)	Store appliance visible from off property	\$150.00	\$250.00
6(6)	Over height grass	\$75.00	\$150.00
6(9)	Trees/shrubs/hedges interfere with pedestrian/vehicular traffic	\$150.00	\$250.00
6(10)	Blocked drainage swale	\$150.00	\$250.00
7(1)	Structure or fence safety hazard	\$250.00	\$500.00
7(2)	Failure to maintain structure in good repair	\$150.00	\$250.00
8	Improper storage of building materials	\$150.00	\$250.00
9(3)	Interfere/obstruct Peace Officer or work forces	\$500.00	\$1000.00