

## BYLAW 818-02

A BYLAW OF THE COUNTY OF WARNER, IN THE PROVINCE OF ALBERTA TO PROMOTE THE MAINTENANCE OF PROPERTY AND PROVIDE FOR THE REMEDY OF DANGEROUS AND UNSIGHTLY PROPERTY WITHIN THE COUNTY OF WARNER.

WHEREAS the Municipal Government Act, R.S.A. 2000,c.M-26, of the Revised Statutes of Alberta 2000, authorizes municipalities to deal with nuisances, including Dangerous and Unsightly Property within the County of Warner.

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

### 1. NAME OF BYLAW

- a. This bylaw may be cited as the Dangerous and Unsightly Property Bylaw.

### 2. DEFINITIONS

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

- a. **Act** means the Municipal Government Act, R.S.A. 2000, c. M-26.
- b. **Administrator** means the Chief Administrative Officer of the County of Warner.
- c. **Council** means the Municipal Council of the County of Warner.
- d. **County** means the Municipal Corporation of the County of Warner No. 5
- e. **Designated Officer** means the Chief Administrative Officer, Bylaw Enforcement Officer, RCMP Officer, County of Warner Fire Chief(s) or his duly authorized assistants, and any other person authorized by the County of Warner.
- f. **Dangerous and Unsightly Property** means property as described in section 3 of this Bylaw.
- g. **Emergency** means a situation in which there is imminent danger to public safety or of serious harm to Property.
- h. **Improvement** means a structure, any thing attached or secured to a structure, which would be transferred without special mention by a transfer or sale of the structure, a mobile unit, and machinery and equipment.
- i. **Nuisance** means any activity or condition within the limits of the County which, in the opinion of a Designated Officer or Council, detrimentally affects,

interferes with, annoys, disturbs, injures or endangers the safety, comfort, peace, health, use value or enjoyment of surrounding Property.

- j. **Order** means a written order in accordance with subsection 546 of the Act.
- k. **Owner** means in respect of Property, the person who is registered under the Land Titles Act as the owner of the fee simple estate of the Property, and in respect of Property other than land, the person in lawful possession of it; the person who is recorded as the owner of the Property on the assessment roll of the County; a person who has purchased or otherwise acquired the Property, whether he has purchased or otherwise acquired the Property directly from the owner or from another purchaser, and has not become the registered owner thereof; a person holding himself out as the person having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership; a person controlling the Property under construction; or a person who is the occupant of the Property under a lease, license or permit.
- l. **Person** includes a corporation, individual, and the heirs, executors, administrators or other legal representatives of an individual.
- m. **Property** means a parcel of land, an improvement, or a parcel of land and the improvements to it.
- n. **Structure** means a building or other thing erected or placed in, on, over or under Property, whether or not it is so affixed to the Property as to become transferred without special mention by a transfer or sale of Property.
- o. **Violation Tag** shall mean a tag or similar document issued by the County pursuant to the Municipal Government Act, R.S.A. 2000, c. M-26.
- p. **Violation Ticket** shall mean a ticket issued pursuant to Part II of the Provincial Offences Procedures Act and Regulations thereunder.

### 3. DANGEROUS AND UNSIGHTLY PROPERTY

- a. Dangerous and Unsightly Property is Property, or any part of it, that, in the opinion of a Designated Officer, is detrimental to the surrounding area because of its nuisance, dangerous and /or unsightly condition.
- b. Some factors that may be considered by a Designated Officer in determining whether Property or activity is a nuisance, dangerous or unsightly include but are not limited to the following:
  - i. the presence of uncut or unduly long grass or weeds,

- ii. 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,
- iii. the presence of wrecked, partially wrecked, dismantled, partially dismantled, inoperable, abandoned looking or unregistered vehicles,
- iv. 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,
- v. specific or general lack of repair or maintenance including but not limited to:
  - (a) significant deterioration of improvements or portions of improvements;
  - (b) broken or missing windows, siding, shingles, shutters, eaves or other building materials; or
  - (c) significant fading, chipping or peeling of painted areas of improvements,
- vi. the location, zoning, use and visibility of the Property.
- vii. the potential for the Property, improvement, structure, excavation or hole, to pose a danger to public safety or that because of its condition constitutes a fire hazard.
- viii. the use and location of the Property in relation to the surrounding properties.

#### **4. GENERAL PROHIBITION**

- a. The Owner of Property shall not cause or allow his Property or the use of his Property to be or remain in a nuisance, dangerous or unsightly condition. If there is more than one Owner of the Property, all Owners of that Property are jointly and severally responsible to ensure that the Property complies with the Bylaw.

#### **5. INSPECTION**

- a. A Designated Officer of the County may, for the purpose of ensuring that the provision of this Bylaw are being complied with, enter into or upon an Owner's Property, in accordance with section 542 of the Municipal Government Act, R.S.A. 2000,c.M-26, to carry out an inspection, enforcement or other action required or authorized by this bylaw or other enactment.

#### **6. ORDER BY DESIGNATED OFFICER**

- a. If, in the opinion of a Designated Officer, any Property does not comply with this bylaw, the Designated Officer may serve the Owner of the Property with an Order pursuant to section 545 of the Municipal Government Act, R.S.A. 2000, c. M-26 to remedy the contravention in any manner deemed necessary in the circumstances by the Designated Officer, An order issued under this section may:
  - (i) direct an Owner to stop doing something or to change the way in which the Owner is doing it;

- (ii) direct an Owner to take any action or measures necessary to remedy the contravention of the Bylaw, including the removal or demolition of the structure that has been erected or placed in contravention of this Bylaw and, if necessary, to prevent a recurrence of the contravention.
- b. If, in the opinion of a Designated Officer, any Property, excavation, hole or activity is dangerous, or constitutes a nuisance or an unsightly condition, the Designated Officer may serve the Owner of the Property with an Order pursuant to section 546 of the Municipal Government Act, R.S.A. 2000, c. M-26, requiring the owner to perform any one or any combination of the following,
  - (i) eliminate the nuisance, danger to public safety in a manner specified;
  - (ii) remove or demolish the structure and level the site;
  - (iii) fill in the excavation or hole and level the site;
  - (iii) improve the appearance of the Property in the manner specified.

## **7. WRITTEN ORDER**

An Order to remedy dangerous or unsightly Property,

- (a) shall be in writing, shall be served on the person which has allowed a dangerous, nuisance or unsightly condition, to the registered owner of the Property, and a copy of the notice shall be retained at the County Office.
- (b) an Order given by the Designated Officer pursuant to any of the provisions of this Bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:
  - (i) on the Order being personally delivered to the person to whom it is addressed
  - (ii) on leaving the Order with a person apparently over the age of eighteen (18) years at the place of abode of the person to whom the notice is addressed
  - (iii) on sending the Order by registered mail with Post Office Confirmation of Delivery, addressed to the last known postal address, or address shown on the assessment roll, as the case may be;
  - (iv) If in the opinion of a Designated Officer, service under subsections 7(b)(i-iii) cannot be reasonably effected, the Designated Officer may post the Order or a copy of the Order in a conspicuous place on the Property to which the Order relates, or on the private dwelling of the person who is intended to be served and such Order is deemed to be served upon the expiry of three (3) days after such Order is posted.
- (c) the Order may state a time within which the person must comply with the Order,
- (d) state the fine for not complying with the Order within the specified time, and

- (e) state that if the person does not comply with the order within a specified time, the County will take the action or measure at the expense of the owner.

## **8. COUNCIL REVIEW OF ORDER**

- a. The owner or person who receives a written Order pursuant to this bylaw may request Council to review that Order by written notice.
- b. The owner or person who receives an Order pursuant to this bylaw must provide the Administrator with a written request for Council to review the Order.
- c. The written request for a review of an Order-issued pursuant to this bylaw must be received by the Administrator within 14 day of receipt of the Order.
- d. The owner or person who receives an Order pursuant to this bylaw may appear before Council in person or by a representative.
- e. After reviewing the Order, the Council may confirm, vary, substitute or cancel the Order.

## **9. NOTICE OF DECISION OF COUNCIL REVIEW**

- a. Notice of decision of the Council review shall be served on the person who requested for the review of the Order by Council.
- b. Notice of decision of the Council review pursuant to any of the provisions of this Bylaw shall be deemed to have been duly given and served on the person to whom it is addressed:
  - (i) on the Notice of Decision being personally delivered to the person to whom it is addressed
  - (ii) on leaving the Order with a person apparently over the age of eighteen (18) years at the place of abode of the person to whom the notice is addressed
  - (iii) on sending the Order by registered mail with Post Office Confirmation of Delivery, addressed to the last known postal address, or address shown on the assessment roll, as the case may be;
- c. The Notice of Decision of the Council Review may state a date within which the person must remedy the dangerous or unsightly Property, this date shall not be less than 15 days from the date the Notice of Decision of Council's Review is received by the owner.

## **10. APPEAL OF COUNCIL'S REVIEW**

- a. An appeal from the decision of Council lies to the Court of Queen's Bench on the grounds and in the manner specified in the Municipal Government Act, R.S.A. 2000, c. M-26.

## **11. REMEDYING UNSIGHTLY PROPERTY**

- a. Where Property does not comply with this Bylaw, the County may pursue its enforcement alternatives in accordance with any Act, or common law right, including issuing orders to remedy contravention, remedying contravention by the County at the expense of the owner or occupier, adding amounts to the tax roll, and obtaining injunctions pursuant to the Municipal Government Act, R.S.A. 2000, c. M-26.
- b. If any nuisance activity, dangerous or unsightly Property has not been remedied by the date required in the Order or Notice of Decision of the Council Review, as the case may be, and appeal periods respecting the Order and Notice of Decision of Council Review, the County may take whatever actions or measures that are necessary to eliminate the danger to public safety caused by a structure, improvement, excavation, or hole or to deal with the unsightly or dangerous condition of the Property as well as a nuisance activity.
- c. If the structure is being removed or demolished by the County under this Bylaw, the County may use reasonable force to remove the occupants.

## **12. EMERGENCIES**

- a. In accordance with section 551 of the Municipal Government Act, R.S.A. 2000, c. M-26 and notwithstanding any provisions of this Bylaw, in an emergency the County may take whatever actions or measures are deemed necessary to eliminate the emergency.

## **13. RECOVERY OF COSTS**

- a. The expenses and costs of any action or measures taken by the County under this Bylaw are an amount owing to the County by the Owner in contravention of the Bylaw.
- b. The expenses and costs incurred by the County in the enforcement of this Bylaw may be collected as a civil debt, or in unpaid after ninety days from the date the account is rendered, may be added to the tax roll of the Property which is subject of the enforcement proceedings under the Bylaw.
- c. If the County sells all or part of the structure that has been removed under this Bylaw, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the Owner entitled to them.

## **14. OFFENCES AND PENALTIES**

- a. Any Person who contravenes the provision of the Bylaw is guilty of an offence and is liable to pay a penalty as set out in Schedule "A" herein.
- b. Under no circumstances shall any Person contravening any provision of this Bylaw be subject to a penalty of imprisonment.

## **15. VIOLATION TAGS**

- a. A Designated Officer is hereby authorized and empowered to issue a Violation Tag to any Person, who the Designated Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- b. A Violation Tag may be issued to such Person either personally or by mailing a copy to such Person at this last known post office address.
- c. The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
  - a. the name of the Owner of Property;
  - b. a description of the Property;
  - c. the offence;
  - d. the appropriate penalty for the offence as specified in Schedule "A: of the Bylaw;
  - e. that the penalty shall be paid within 30 days of the issuance of the Violation Tag;
  - f. any other information as may be required by the Chief Administrative Officer.
- d. Where a contravention of this Bylaw is of a continuing nature, a further Violation Tag may be issued by a Designated Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
- e. Where a Violation Tag is issued pursuant to subsection 15(a) or (d) of 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.

## **16. VIOLATION TICKET**

- a. In those cases where a Violation Tag has been issued and if the penalty specified on a Violation Tag has not been paid within the prescribed time, then a Designated Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the *Provincial Offences Procedure Act, R.S.A. 2000, c. P-34/*
- b. Notwithstanding subsection 16(a) of this Bylaw, a Designated Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any Person who the Designated Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

## **17. SEVERABILITY**

Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained

## **18. REPEAL**

a. Bylaw 733 is hereby repealed.

Read a first time this 1st day of October, 2002.

Read a second time this 12<sup>th</sup> day of November, 2002.

Read a third time this 3<sup>rd</sup> day of December, 2002.

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Reeve

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Administrator

#### APPENDIX A

Any person that does not comply with a written notice pursuant this bylaw shall be guilty of an offence and shall be fined as outlined below:

- or the first offence, to a fine of five hundred (\$ 500.00) dollars and costs.
- for the second and subsequent offence to a fine of seven hundred and fifty(\$ 750.00) dollars and costs.