

MUNICIPALITY OF CROWSNEST PASS

BYLAW NO. 701, 2006

A BYLAW OF THE MUNICIPALITY OF CROWSNEST PASS IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF ESTABLISHING CONTROLS TO PREVENT THE OCCURRENCE OF LONG GRASS.

WHEREAS the Municipal Government Act R.S.A. 2000, Chapter M-26 and amendments Council may pass Bylaws establishing community standards, and

WHEREAS unattractive premises are a detriment to surrounding properties and the community generally; and

WHEREAS Council deems it advisable to pass a Bylaw to prevent the occurrence of long and untended grass and weeds; and

WHEREAS the purpose of this Bylaw is to improve the beauty of the Municipality of Crowsnest Pass;

NOW THEREFORE, THE COUNCIL OF THE MUNICIPALITY OF CROWSNEST PASS ENACTS AS FOLLOWS:

1. This Bylaw shall be cited as the “LONG GRASS BYLAW”.
2. In this Bylaw, unless the context otherwise requires, the term:
 - (a) **“Act”** means the Municipal Government Act, RSA 2000, M 26 as amended or replaced from time to time.
 - (b) **“Council”** means the Council of the Municipality of Crowsnest Pass;
 - (c) **“Clean Up Order”** means an Order issued under this Bylaw;
 - (d) **“Enforcement Officer”** means any member of the R.C.M.P. or a Bylaw Enforcement Officer of the Municipality of Crowsnest Pass;
 - (e) **“Objectionable Grass”** means grass or a member of the grass family which is unsightly, forms a nuisance, or is not controlled or managed
 - (f) **“Occupant”** means any person other than the owner who has a legal or equitable interest in land or other property, including but not restricted to a lessee, occupant or agent or the owner;
 - (g) **“Offending Premises”** shall mean any premises being land, within the Municipality, that in the opinion of the Enforcement Officer, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Offending Premises.
 - (h) **“Owner”** means:
 - (i) in respect to unpatented lands, the Crown;
 - (ii) in respect to other land, the person who is registered under the Land Titles Act as the owner of the fee simple estate in the land, and
 - (iii) in respect of any property other than land, the person in lawful possession of it.
 - (i) **“Premises”** means any land, building or property, whether real or personal, within the municipal boundaries of the Municipality;
3. The Owner of land shall not cause or allow his land to be an Offending Premises.
4. A tenant will maintain the premises and any property rented with it in a reasonably clean condition.

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5. In determining whether premises are in contravention of this Bylaw, an Enforcement Officer shall have regard to the general condition and state of tidiness of the surrounding Premises, the location and permitted use of the Premise and whether or not the Premise is located within a Residential Development.
6. An Enforcement Officer may, for the purposes of ensuring that the provisions of the Bylaw are being complied with, enter in or upon an Owner's land or structure, 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 or an enactment.
7. This part shall not be interpreted to prevent the controlled and managed practice xeriscaping or other low water use gardening practice.
8. Nothing in this Bylaw relieves a Person from complying with the Act or the Regulations.
9. For the purpose of this Bylaw, the Owner of a parcel of land as registered at the Land Titles is ultimately responsible for vegetation on that parcel and shall also be responsible for that portion of any highway, road or alley which adjoins that parcel and lies between the boundary of the parcel and the middle of the highway, road or alley.
10. The standards requirements and prohibitions contained in this Bylaw shall apply to:
 - a) residential properties, excepting Grouped Country Residential;
 - b) commercial properties, and
 - c) vacant lots within residential and commercial areas
11.
 - a) All yards and lots shall permit adequate access, and shall be kept clean and free from rubbish, debris, heavy undergrowth and weeds.
 - b) The owner, lessee, tenant or agent of the owner is required to cut the grass and maintain all trees and plants on the boulevard adjoining the property owned or occupied by them.
 - c) the lessee, tenant or agent of the owner is required to control dandelions, grass or plants within their said property as well as one half of the width of the lane or alley adjoining the property owned or occupied by them.
 - d) No owner, lessee, tenant or agent of the owner shall cause or maintain an Unsightly Premises.
12. No lessee, tenant or agent of the owner shall allow grass or grasses on the Premises to exceed a height of TWELVE (12'') INCHES.
13. If, in the opinion of an Enforcement Officer, any land within the Municipality is an Offending Premises, the Designated Officer may by the issuance of a Clean Up Order:
 - (a) require the Owner of the Offending Premises to improve the appearance of the property in the manner specified,
 - (b) when an order is issued to a tenant, the owner of the property shall be provided with a copy.

A Clean Up Order issued under this clause:

- (a) shall describe the premises by:
 - (i) name, if any, and
 - (ii) the municipal address and legal description.
- (c) shall state that the premises contravene the provisions of this Bylaw.
- (d) shall give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made.
- (e) shall state the time within which the clean up, removal, clearing or other actions are to be done.
- (f) shall state that if the required actions are not done within the time specified, the Municipality may carry out the actions required and charge the cost thereof against the person or persons to whom the Order is directed, and if such person or persons do not pay the costs, the costs shall be charged against the premises concerned as taxes due and owing in respect of that property and recovered as such.

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- (g) shall state that an appeal of the Order may be made to the Board if the appeal is lodged in writing with the Chief Administrative Officer or designate within fifteen (15) working days of the documented receipt of the Order.
 - (h) If an Enforcement Officer considers any property to have any matter or thing that constitutes an environmental hazard, the Enforcement Officer will report the situation to the appropriate Provincial Government Agency as soon as reasonably possible, and the owner and occupant shall be so advised.
 - (i) A copy of the Order shall be served on the owner and occupant of the premises:
 - (i) by personal delivery to the person or persons intended to be served, or
 - (ii) by mailing the Order to the person to be served by Registered Mail to the last known Post Office address of that person, and the service shall be deemed to be effective seven (7) days following the date of mailing.
 - (iv) where the premises is not occupied, by mailing the notice by Registered Mail to the address noted on the Municipality's tax roll for that premises, and service shall be deemed to be effective seven (7) days following the date of mailing.
 - (v) by leaving the Clean Up Order for the Owner at his residence with a person on the premises who appears to be at least eighteen (18) years of age;
 - (vi) by posting the Clean Up Notice in a conspicuous place on the land referred to on the order, when the Enforcement Officer has reason to believe:
 - (a) that the owner to whom the order is addressed is evading service, or
 - (b) no other means of service are available.
 - (vii) as directed by the Court.
 - (viii) The Clean Up Order may require the person to whom it is addressed, within a period of not less than thirty (30) days from the date of receipt of the Order to remedy the condition of the property in accordance with the direction of the Order and remove or place in waste receptacles such materials as appropriate.
14. The Enforcement Officer may extend the time for doing anything which is required to be done by the terms of the Order.
15. Council hereby authorizes and establishes the Board as a Committee of Council to hear appeals arising from Clean Up Orders issued pursuant to this Bylaw.
- (a) Where a Clean Up Order is issued pursuant to Section 6, such Clean Up Order may be appealed in writing within fifteen (15) working days to the Chief Administrative Officer or designate.
 - (b) Where a Clean Up Order is appealed pursuant to subsection 14 (A.) the Order is stayed pending a final decision of the merits of the appeal by the Board.
 - (c) The Board that hears an appeal may confirm, vary, or revoke the Clean Up Order, or may substitute its decision in place of the Clean Up Order which was issued.
 - (d) The Board may extend the time within which anything required to be done by the Clean Up Order is to be performed.
 - (e) The Board may direct anything to be done that an Enforcement Officer can direct to be done, either in addition or in substitution for the direction in the Order appealed.
 - (f) Each Notice of Appeal shall:
 - (i) state with reasonable exactness the grounds of appeal, and
 - (ii) state the name, address and interest of the appellant in the property, and
 - (iii) be dated and signed by the appellant or on his behalf, by his agent, and if signed by an agent, shall state the name and address of the agent.
 - (g) The Chief Administrative Officer or designate shall upon receipt of the Notice of Appeal, set a date for the hearing of the Appeal which shall be held not more than thirty (30) days from the receipt of the Notice of Appeal.

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16. Conduct of Appeals:
- (A) When hearing an Appeal, the Council as the Board:
 - (i) shall conduct the Hearing in public;
 - (ii) shall not be bound by the technical rules of evidence, and
 - (iii) shall afford every person concerned the opportunity to be heard, to submit evidence, and to hear the evidence of others.
 - (B) The Board shall adopt rules of procedures for hearing appeals currently in use by the Council, and Rules of Order shall be as per the Municipal Procedures Bylaw.
 - (C) The Board shall consider each appeal having regard to the circumstances and merit of the case and the applicable provisions of this and other Municipal Bylaws and the Municipal Government Act.
17. The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order by the Enforcement Officer, or the requirements or directions set out in any decision of the Board.
18. (A) If a person to whom a Clean Up Order is directed under this Bylaw fails to carry out the Order within the time stated in the Order in the case of an Order that is not appealed, or within the time limited by the Board in the case of an Order that is appealed, an Enforcement Officer may access the property or structure in accordance with Section 12 of this Bylaw and take whatever actions are necessary to deal with the unsightly condition of the premises.
- (B) The Municipality or persons appointed by it may remove fencing or other obstructions in carrying out the Order and shall replace or repair any fencing or other obstructions removed or damaged in the course of carrying out the Order.
 - (C) The expenses incurred by the Municipality in carrying out an Order under this Section constitutes a debt owing to the Municipality from the person to whom the Order is directed.
 - (D) Within thirty (30) days of ascertaining the amount of expenses incurred by the Municipality in carrying out the Order, the Chief Financial Officer shall send a demand for payment of these expenses to the person to whom the Order was directed.
 - (E) For payment of expenses in a tenancy arrangement, all attempts to collect shall be made and failing this the landlord will be notified of the expenses. Should payment of said expenses not then be made within sixty (60) days, and failure to pay by the Landlord, then the Director of Finance and Systems shall place the amount of the expenses incurred in carrying out the Order on the tax role as an additional tax against the land concerned, and that amount:
 - (i) forms a lien on the land in favour of the Municipality, and
 - (ii) shall, for all purposes, be deemed to be taxes imposed and assessed on the land and delinquent under the Municipal Government Act from the date the expenses were incurred, and that Act applies to the enforcement, collection and recovery of the amount.
 - (F) Where the Municipality carried out an Order under this Section the work forces shall deposit any material removed from the premises at a location designated by the Public Works Superintendent.
 - (G) When material removed from said premises under Subsection (f) is removed to a location specified by the Public Works Superintendent, the Public Works Superintendent may direct that the material be disposed of if the person to whom the Order has been issued does not remove the material within fourteen (14) days of being requested in writing to do so by the Public Works Superintendent.

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19. (A) A person who contravenes this Bylaw is guilty of an offense and liable:
- (i) for a first offense, to a fine of TWO HUNDRED AND FIFTY (\$250.00) DOLLARS.
 - (ii) for a second offense, to a fine of FIVE HUNDRED (\$500.00) DOLLARS. for a third and any subsequent offense, to a fine of ONE THOUSAND (\$1,000.00) DOLLARS, and
 - (iii) for a fourth and subsequent offense, to a fine of a maximum amount of TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS.
- (B) An Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person, who the Enforcement Officer has reasonable and probable grounds to believe has contravened any provisions of this Bylaw.
- (C) A Violation Tag may be issued to such person either personally or by mailing a copy to such person at his last known post office address.
- (D) The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
- (a) the name of the Owner of land;
 - (b) a description of the land;
 - (c) the offence;
 - (d) the appropriate penalty for the offence as specified in this Bylaw;
 - (e) that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag
 - (f) any other information as may be required by the Chief Administrative Officer.
- (E) Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by an Enforcement officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
- (F) 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 Municipality's Treasurer the penalty specified on the Violation Tag.
- (G) 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 an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, c.P-21.5, as amended.
- (H) In those cases involving a tenancy arrangement, all attempts to collect the specified penalties shall be made and failing this the landlord will be notified of the penalties. Should payment of said expenses not then be made by the Landlord within the prescribed time then an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, c.P-21.5, as amended.
- (I) Notwithstanding anything to the contrary in this Bylaw, an Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Tag to any person who the Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
20. This Bylaw shall come into effect on the day of final reading.

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Read a first time this 15th -day of August, 2006.

CARRIED

John Irwin

Mayor

ORIGINAL SIGNED

Gordon O. Lundy

Chief Administrative Officer

Read a second time this 19th - day of September, 2006.

CARRIED

Read a third and final time, this 19th - , day of September, 2006.

CARRIED

MUNICIPALITY OF CROWSNEST PASS

John Irwin

Mayor

ORIGINAL SIGNED

Gordon O. Lundy

Chief Administrative Officer