

TOWN OF BIRCH HILLS

BYLAW 10/17

A BYLAW OF THE TOWN OF BIRCH HILLS IN THE PROVINCE OF SASKATCHEWAN RESPECTING THE AUTHORITY TO ADDRESS PROPERTY AMENITIES AND THE ABATEMENT OF NUISANCES

Whereas Section 8 of *The Municipalities Act*, enable a Council to pass a bylaw for the purposes of establishing standards for nuisances, including property, activities or things that affect the amenity of a neighbourhood;

Now, therefore, The Council of the Town of Birch Hills, in the Province of Saskatchewan, enacts as follows:

Part I – Interpretation

1. Short Title

This Bylaw may be cited as the Property Amenities Bylaw

2. Purpose

The purpose of this bylaw is to identify what constitutes a nuisance and provide for the abatement of nuisances, including property or things that adversely affect:

- a) the safety, health and welfare of people in the neighbourhood;
- b) people's use and enjoyment of their property; or
- c) the amenity of a neighbourhood.

3. Definitions

In this Bylaw:

- a) "Act" means *The Municipalities Act*;
- b) "Accessory building" means an accessory building within the meaning of The Town of Birch Hills' current Zoning Bylaw;
- c) "Boarded" means, in the case of a door or a window frame or casing, a frame or casing that is covered and/or secured, whether by temporary or permanent measures, by plywood or other materials instead of a door or a window;
- d) "Building" means a building within the meaning of *The Municipalities Act*;
- e) "Officer" means a Bylaw Enforcement Officer, or any other person appointed to enforce municipal bylaws;

- f) "Council" means the Council of the Town of Birch Hills;
- g) "Graffiti" means any drawings, inscription, writing or other mark that disfigures or defaces any building, accessory building, fence or other structure, however made, or otherwise affixed;
- h) "Grass" means any vegetation, usually consisting of typically short plants with long narrow leaves, growing wild or cultivated, on lawns or in gardens;
- i) "Junked Vehicle" means any automobile, tractor, truck, trailer or other vehicle not mentioned or defined herein, that, either:
 - i. has no valid license plates attached to it; or
 - ii. is inoperative, or inoperable, or cannot be moved by its own power, at the request of the Bylaw Enforcement Officer; or
 - iii. is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition;

and is located on private land, but that:

- i. is not completely obscured or enclosed within a structure erected in accordance with any bylaw respecting the erection of buildings and structures in force within the municipality; and
 - ii. does not form part a business enterprise, such as a garage or salvage, junkyard, scrap metal, etc., lawfully being operated on that land;
- j) "Municipality" means the Town of Birch Hills
 - k) "Nuisance" means a condition of property, or a thing, or an activity that adversely affects or may adversely affect:
 - i. The safety, health and welfare of people in the neighbourhood;
 - ii. People's use and enjoyment of their property; or
 - iii. The amenity of a neighbourhood;and includes;
 - iv. a building that:
 - (A) is an imminent danger to public safety, which shall be deemed to include, without limitation, a building that is:

1. unoccupied; or
 2. damaged;
- (B) has defective or missing hardware so as to be incapable of locking or securing entrances to the building or is otherwise vulnerable to trespass, occupancy and/or entrance by unauthorized persons;
- (C) has door or window frames or casings that are boarded; or
- (D) is the subject of an Order for repair, remedy or upgrade issue pursuant to a Bylaw of the Town of Birch hills or provincial legislation or regulation for which the repair, remedy or upgrade has not been completed within a timeframe specified by the Order
- v. land that is overgrown with grass, weeds or trees;
 - vi. untidy and unsightly property;
 - vii. junked vehicles; or
 - viii. open excavation(s) on property;
- k) "Occupant" means an occupant as defined in *The Municipalities Act*
- l) "Owner" means an owner as defined in *The Municipalities Act*
- m) "Property" means land or buildings or both;
- n) "Structure" means anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having permanent location on the ground or soil, but not including pavements, curbs, walks, or open air surfaced areas.

4. Responsibility

Unless otherwise specified, the owner or a property, including land, buildings and structures, shall be responsible for carrying out the provisions of this bylaw.

Part II – Nuisances

5. Nuisances Prohibited Generally

No person shall cause or permit a nuisance to occur or remain on any property owned by that person.

6. Dilapidated Buildings

Notwithstanding the generality of Section 5, no person shall cause or permit a building or structure to deteriorate into a ruinous or dilapidated state such that the building or structure:

- a) is deemed a danger to the public's health or safety; or
- b) substantially depreciates the value of other land or improvements in the neighbourhood.

7. Unoccupied Buildings

Notwithstanding the generality of Section 5, no person shall cause or permit an unoccupied building to become damaged or to deteriorate into a state of disrepair such that the building is or shall become an imminent danger to public safety.

8. Overgrown Grass, Weeds and Trees

- a) Notwithstanding the generality of Section 5, no person shall cause or permit the land to be overgrown with grass or weeds.
- b) For the purposes of this section, "overgrown" means in excess of 20 centimeters in height.
- c) This section shall not apply to any growth which forms part of a natural garden that has been deliberately planted to produce ground cover, including one or more species of wildflowers, shrubs, perennials, grasses or combinations of them, whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.
- d) Trees that encroach onto any public right-of-way or sidewalk.

9. Untidy and Unsightly Property

- a) Notwithstanding the generality of Section 5, no person shall cause or permit any land or buildings to become untidy and unsightly due to graffiti or the accumulation of new or used lumber, cardboard, paper, newspapers, appliances, tires, cans, barrels, scrap metal or other waste materials, sharp or dangerous materials or junk.
- b) All residential front yards shall be kept free of the following:
 - i. motorized vehicles including but not limited to, automobiles, ATVs, motorcycles, snowmobiles, boats and motorhomes,
 - ii. trailers of any type;
 - iii. campers of any type;
 - iv. portable garages; and

- v. any accessory structure whether portable or permanent.

Except for vehicles as referenced to above which are located on a front yard driveway designed for that purpose.

10. Junked Vehicles

Notwithstanding the generality of Section 5, no person shall cause or permit any junked vehicle to be kept on any land owned by that person. On any individual property, up to two (2) unlicensed vehicles may be stored if garaged, or properly covered in such a manner as to be protected from the elements, and in accordance with Section 3 k).

11. Open Excavations

Notwithstanding the generality of Section 5, no person shall cause or permit any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool or other structure to exist in or on any private land or in or about any building or structure which is dangerous to the public's safety or health.

12. Graffiti

Notwithstanding the generality of Section 5, no person shall permit graffiti to remain on any building, accessory building, and fence or on any other structure on property owned by that person.

Part III – Abatement of Nuisances

13. General Conditions

- a) All property, including land, buildings and structures, not kept in a condition consistent with the minimum standards prescribed in this Part shall be deemed a nuisance as defined under this bylaw.
- b) No person shall cause or permit the occupancy or use of any property, including land, building or structures that do not conform to the minimum standards.
- c) Notwithstanding Section 4, every occupant of a property, including land, buildings and structures, shall:
 - i. keep in a clean and sanitary condition that part of the property which the occupant occupies or controls;
 - ii. keep exits to the exterior of the building in a safe and unobstructed condition;
 - iii. dispose of garbage and refuse and keep the property free from rubbish and other debris which might constitute fire, health or safety hazards.

- d) Human habitation is not permitted in any recreation vehicles, trailer or accessory building. No trailer, motor home, camper or tent trailer shall be supplied with a permanent connection to a utility such as gas or power. No trailer, mobile home, camper or trailer shall be electrified or heated through the use of electrical cords powered from a permanent structure.

14. Yards

A yard shall be kept free and clean from:

- a) garbage and junk;
- b) junked vehicles and dismantled machinery;
- c) excessive growth of weeds or grass;
- d) holes and excavations that could cause an accident;
- e) an infestation of rodents, vermin or insects;
- f) dead or hazardous trees, or encroaching on any public property; and
- g) sharp or dangerous materials.

15. Outdoor Storage of Materials

- a) Any building materials, lumber, scrap metal, boxes or similar items stored in a yard shall be neatly stacked in piles and elevated off the ground so as not to constitute a nuisance or harbourage for rodents, vermin and insects.
- b) Materials referred to in Subsection (1) shall be elevated at least 150 millimetres off the ground and shall be placed 3 metres from the exterior walls of any building and 1 metre from the property line.
- c) Reference to Subsections (1) and (2) above must not be located in the front yard of a property for more than 72 hours, or they shall be relocated to be obscured from public view.

16. Waste Disposal

Every building shall be provided with a sufficient number of receptacles to contain all waste generated from the site. Waste shall be contained in accordance with the provisions of the Town of Birch Hills Waste Collection and Disposal Bylaw and shall not be allowed to accumulate on site without a means of containment.

17. Accessory Buildings

- a) Accessory buildings shall not be nuisances and shall be kept:

- i. In good repair;
 - ii. Free of infestation by rodents, vermin and insects;
 - iii. Free of health, fire and safety hazards; and
 - iv. Free of graffiti
- b) Accessory buildings shall be equipped with doors or closures and shall be kept secured so as to prevent unauthorized entry.
- c) Accessory buildings shall not have any human habitation.

18. Fences

Fences shall be kept:

- a) In a safe and reasonable state of repair;
- b) Free of graffiti; and
- c) Free of material that is in a damaged or poor condition.

19. Building Condition

- a) The components of every building, including roofs, stairs, railings, porches, decks, joists, rafters, beams, columns, foundations, floors, walls and ceilings shall be kept in reasonable state of repair, and shall be suitably protected from the elements.
- b) The foundation of a building shall not allow the ingress of water through cracks or other damage.
- c) If a Bylaw Enforcement Officer encounters visual damage that they feel may be detrimental to the building, the Bylaw Enforcement Officer will provide photographic evidence to the Municipality for review, and if required, correction under the provisions of the **Maintenance and Occupancy Bylaw**.

20. Exterior Condition

- a) All exterior surfaces shall be made of materials which provide adequate protection from the weather.
- b) Exterior walls shall be covered with an application of paint, stain, stucco, brick, stone facing, siding or other similar protective surface to protect the walls from deterioration due to moisture penetration.

c) Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers or any other conditions which might admit rain or dampness to the interior walls or the interior spaces of the buildings.

d) All exterior surfaces shall be free of graffiti.

21. Roofs

a) A roof, including the shingles, fascia boards, soffit, cornice and flashing shall be watertight so as to prevent deterioration or leakage of water into the building, or the entry of vermin.

b) Loose materials, including dangerous accumulations of snow and ice, above entrances or exits and egress windows, shall be removed from the roof of a building as soon as reasonably possible so as to prevent damage to the building or injury to persons in or near the building.

c) Water running off a roof shall be carried away from the building so as to not cause dampness in the walls, ceilings or floors in a building. Downspouts shall be used to direct water ways from a building but shall not be positioned in such a way as to direct water on to an adjacent property or toward a public sidewalk or public area in a manner which may result in a hazardous condition or damage by erosion.

d) Eaves troughs, downspouts, and extensions shall be watertight and in good repair.

22. Chimneys

a) Chimneys, flue pipes and smoke stacks shall be in good repair so as to prevent gases, water or any other substance from leaking into the building.

b) Chimneys, flue pipes and smoke stacks shall be free of any defects.

c) Chimneys, flue pipes and smoke stacks shall have all defective masonry or metal components repaired or replaced as needed.

d) Chimneys, flue pipes and smoke stacks shall be kept clear of obstructions.

23. Exterior Doors, Storm Doors, Windows and Screens

a) A door shall be provided at each entrance to a building, and when closed, it shall be reasonable tight-fitting within its frame.

b) Exterior doors, storm doors and storm windows shall be kept in a reasonable state of repair, and shall be weather-tight so as to perform their intended function.

c) Openable windows within 2 metres of ground level shall have an acceptable locking mechanism.

- d) Exterior doors shall have an acceptable locking mechanism.
- e) Windows and glass doors which separate heated space from unheated space or the exterior shall be at least double glazed unless there is a separate storm door or window.
- f) Windows and doors which open to the exterior and which are used for natural ventilation shall be screened so as to provide protection from the weather and insects.

24. Stairs, Porches, Decks and Railings

- a) Stairs, porches, decks and railings shall be kept in good repair with no components that are broken, loose, rotted or warped.
- b) A handrail shall be installed on at least one side of all exterior stairs having more than three risers.
- c) A guardrail shall be installed on all open sides where the difference in elevation between the adjacent ground level and the walking surface exceeds 600 millimetres.
- d) Guardrails shall be 900 millimetres in height where the walking surface is not more than 1800 millimetres above grade.
- e) Guardrails shall be 1070 millimetres in height where the walking surface is greater than 1800 millimetres above grade.
- f) Guardrails shall have openings not exceeding 100 millimetres between the balusters and shall not facilitate climbing.

25. Electrical Services

- a) All buildings shall be supplied with electrical service that is adequate to safely meet the electrical needs of the building.
- b) All electrical outlets and lighting shall be in good working condition with required covers and no exposed wiring.
- c) Overhead electrical masts must be in a condition that can support the electrical wire.
- d) At any time, the Bylaw Enforcement Officer may request the owner to obtain a certified electrician or electrical inspector to provide written documentation that the electrical meets the National Electrical Code of Canada. Failure to do so shall be an offence under this bylaw.

Part IV – Enforcement, Offences and Penalties

26. Enforcement of Bylaw

Administration and enforcement of this bylaw may be delegated to a Bylaw Enforcement Officer(s).

27. Inspections

- a) The inspection of property by the Municipality to determine if this bylaw is being complied with is hereby authorized.
- b) Inspection under this bylaw shall be carried out in accordance with Section 362 of *The Municipalities Act*.
- c) No person shall obstruct a Bylaw Enforcement Officer who is authorized to conduct an inspection under this section, or a person who is assisting a Bylaw Enforcement Officer.
- d) An Inspector may request that the owner supply confirmation of a condition, a thing or an activity by providing a certificate, letter, or any other documentation from an expert in a field related to the condition, thing or activity. If requested, the documentation will be required to provide a solution(s) to rectify the condition, thing or activity which the owner shall then be required to complete.
- e) An Order may contain an option or a requirement to demolish a structure. If provided as an option, demolition may be chosen by the owner as an alternative to undertaking repairs. Demolition may be required by Order without the option to repair if the structure has been deemed to pose an unacceptable risk to public safety in terms of structure, condition or use.
- f) The requirements contained within an Order do not suspend the need to comply with conditions defined by any other bylaw, act or regulations, including but not limited to the need to obtain permits, permissions or certification.

28. Order to Remedy Contraventions

- a) If a Bylaw Enforcement Officer finds that a person is contravening this bylaw, the Bylaw Enforcement Officer may, by written Order, require the owner or occupant of the property to which the contravention relates to remedy the contravention.
- b) Orders given under this bylaw shall comply with Section 364 of *The Municipalities Act*.
- c) Orders given under this bylaw shall be served in accordance with Section 390 of *The Municipalities Act*.

29. Registration of Notice of Order

If an Order is issued pursuant to Section 28 of this bylaw, the Municipality may, in accordance with Section 364 of *The Municipalities Act*, give notice of existence of the Order by registering an interest against the title to the land that is subject of the Order.

30. Appeal of Order to Remedy

- a) A person may appeal an Order made pursuant to Section 28 of this bylaw in accordance with Section 365 of *The Municipalities Act*.
- b) Appeals shall be made initially to the Council of the Town of Birch Hills.

31. Municipality Remediating Contraventions

- a) The Municipality may, in accordance with Section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this bylaw.
- b) The Municipality and/or its officers, may direct or authorize the removal of any vehicles not in compliance with this bylaw, off of the property in contravention, at the expense of the property owner.

32. Civil Action to Recover Costs

The Municipality may, in accordance with Section 368 of *The Municipalities Act*, collect any unpaid expenses and costs incurred in remediating a contravention of this bylaw by civil action for debt in a court of competent jurisdiction.

33. Adding Amounts to Tax Roll

The Municipality may, in accordance with Section 369 of *The Municipalities Act*, add any unpaid expenses and costs incurred by the Municipality in remediating a contravention of this bylaw to the taxes on the property on which the work was done.

34. Emergencies

In the event that it becomes an emergency to remedy a contravention of this bylaw, the Municipality may take whatever actions or measures are necessary to eliminate the emergency in accordance with the provision of Section 367 of *The Municipalities Act*.

35. Offences and Penalties

- a) No person shall:
 - i. fail to comply with an Order made pursuant to this bylaw;
 - ii. obstruct or hinder any Bylaw Enforcement Officer or any other person acting under the authority of this bylaw; or
 - iii. fail to comply with any other provision of this bylaw.

b) Every person who contravenes any provision of Subsection (1) is guilty of an offence and liable on summary conviction, in addition to any surcharge imposed by the Courts:

- i. In the case of an individual, to a fine of not less than \$500 and not more than \$10,000;
 - (A) on a first offence, a fine not less than \$500;
 - (B) on a second offence, a fine not less than \$750;
 - (C) on a third offence, a fine not less than \$1,000.
- ii. in the case of a corporation, to a fine of not less than \$1,000 and not more than \$25,000;
 - (A) on a first offence, a fine not less than \$1,000;
 - (B) on a second offence, a fine not less than \$1,500;
 - (C) on a third offence, a fine not less than \$2,000.
- iii. in the case of a continuing offence, to a maximum daily fine of not less than \$25 per day and not more than \$2,500 per day.

b) If an individual is convicted of an offence pursuant to this section, and if the individual fails to pay the fine with respect to the conviction within the prescribed time, the individual convicted may be imprisoned for a term of not more than one year, unless the fine is paid sooner.

36. Severability

If a Court of competent jurisdiction should declare any section or part of a section of this bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced the Council to pass the remainder of the bylaw, and it is hereby declared that the remainder of the bylaw shall be valid and shall remain in force and effect.

37. Coming into Force

This bylaw shall come into force on the day of its final passing.