

BYLAW NUMBER 33M2016

**BEING A BYLAW OF THE CITY OF CALGARY
TO REQUIRE VISUAL ASSESSMENT
OF BUILDING EXTERIORS AND
THE MAINTENANCE OF BUILDINGS**

WHEREAS The City of Calgary has been designated as an accredited municipality by the Safety Codes Council of Alberta to administer and enforce the Safety Codes Act, R.S.A. 2000, c. S-1 and the Alberta Building Code 2014 as declared in force by the Building Code Regulation, AR 31/2015;

AND WHEREAS pursuant to section 66(2)(b) of the Safety Codes Act, The City of Calgary may make bylaws respecting minimum maintenance standards for buildings and structures;

AND WHEREAS pursuant to section 7 of the Municipal Government Act, R.S.A. 2000, c. M-26, The City of Calgary may pass bylaws respecting:

- (a) the safety, health and welfare of people and the protection of people and property; and
- (b) the enforcement of bylaws made under the Municipal Government Act or any other enactment;

AND WHEREAS Council has considered PUD2016-0459;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF CALGARY ENACTS AS FOLLOWS:

SHORT TITLE

- 1. This Bylaw may be cited as the "Building Maintenance Bylaw".

DEFINITIONS

- 2. (1) In this Bylaw.
 - (a) "*building*" means a structure that is five storeys or more above *grade* that is used for supporting or sheltering any use or occupancy;
 - (b) "*building envelope*" means the *walls* and *roof* of a building or structure, but excludes the below *grade* foundation walls and slab;
 - (c) "*Chief Building Official*" means the *City Manager* or the *City Manager's* delegate;
 - (d) "*City Manager*" means the chief administrative officer of The City of Calgary;

- (e) “*grade*” means the level at which the surface of the ground meets the foundation of a building or structure;
 - (f) “*hazardous condition*” means a condition where an element of a *building envelope* is not securely attached thereby causing a danger to persons or property if it were to detach or collapse;
 - (g) “*officer*” means a person appointed pursuant to Bylaw 60M86 to enforce the provisions of this Bylaw and other bylaws of The City of Calgary;
 - (h) “*owner*” means the person shown as the owner on the land title for a property on which a *building* is located;
 - (i) “*roof*” means the roof of a building or structure or part of a building or structure, and includes decks, balconies and other horizontal surfaces, all components necessary for the roof to perform its function, any penetrations, and any objects permanently or temporarily attached on or through the surface of the roof such as signs and electrical, mechanical or other type of equipment;
 - (j) “*wall*” means any exterior wall of a building or structure or part of a building or structure, and includes all components necessary for the wall to perform its function, penetrations such as doors and windows, and any objects permanently or temporarily attached on or through the surface of the wall such as signs, cornices, and electrical, mechanical or other type of equipment.
- (2) All schedules attached to this Bylaw form part of this Bylaw.
 - (3) Headings or sub-headings are inserted for ease of reference and guidance purposes only and do not form part of this Bylaw.
 - (4) Where this Bylaw cites or refers to any act, regulation, code or other bylaw, the citation or reference is to the act, regulation, code or other bylaw as amended, whether amended before or after the commencement of this Bylaw, and includes reference to any act, regulation, code or other bylaw that may be substituted in its place.
 - (5) Each provision of this Bylaw is independent of all other provisions and if any provision is declared invalid for any reason by a court of competent jurisdiction, all other provisions of this Bylaw remain valid and enforceable.
 - (6) Nothing in this Bylaw relieves a person from complying with any provision of any federal, provincial or municipal law or regulation or any requirement of any lawful permit, order or licence.

Duty to Visually Assess Building Envelope

- 3. (1) The *owner* of a *building* must ensure that the condition of the *building envelope* is visually assessed in accordance with this Bylaw.

- (2) The visual assessment of the *roof* of a *building* must be performed by a person with sufficient education, training, skill and experience relating to *roofs* such that the person's visual assessment may reasonably be relied upon.
- (3) The visual assessment of the *walls* of a *building* must be performed by a person with sufficient education, training, skill and experience relating to *walls* such that the person's visual assessment may reasonably be relied upon.
- (4) The results of the visual assessment of the *building envelope* must be recorded on a form prescribed by the *Chief Building Official*, to be known as a Building Exterior Visual Assessment.
- (5) The qualifications of the person or persons who performed the visual assessment must be recorded on the Building Exterior Visual Assessment.

Initial Assessment

4. (1) An initial Building Exterior Visual Assessment must be completed no later than:
 - (a) January 1, 2018, for a *building* more than 45 years old as of January 1, 2016;
 - (b) January 1, 2019, for a *building* less than 45 years old but more than 25 years old as of January 1, 2016;
 - (c) January 1, 2020, for a *building* less than 25 years old but more than 15 years old as of January 1, 2016;
 - (d) January 1, 2021, for a *building* less than 15 years old but more than 10 years old as of January 1, 2016;
 - (e) the 10th anniversary of the date of issuance of the occupancy permit, for a *building* less than 10 years old as of January 1, 2016;
 - (f) the 10th anniversary of the date of issuance of the occupancy permit, for a *building* constructed after January 1, 2016.
- (2) For subsections 4(1)(a), (b), (c) and (d), the age of the *building* shall be determined by reference to The City of Calgary's annual assessment roll prepared pursuant to section 302 of the *Municipal Government Act*, R.S.A. 2000, c. M-26.

Subsequent Assessments

5. A *building* must be visually assessed within 5 years of the date of the last Building Exterior Visual Assessment.

Retention of Building Exterior Visual Assessments

6. (1) The *owner* must retain all Building Exterior Visual Assessments for the *building* for the life of the *building*.

- (2) If the ownership of the *building* is transferred, the former *owner* must provide all Building Exterior Visual Assessments for the *building* to the new *owner*.

Duty to provide Building Exterior Visual Assessment

7. An *owner* of a *building* must provide all Building Exterior Visual Assessments for the *building* to the *Chief Building Official* within 14 days of the *Chief Building Official's* written request.

Duty to maintain

8. (1) An *owner* of a *building* must keep the *building envelope* in good repair and free from any *hazardous condition*.
- (2) In subsection (1), "good repair" means a condition where something is free from:
- (a) significant damage;
 - (b) detaching or delaminating surfaces;
 - (c) broken, missing, or fallen parts;
 - (d) rot or other significant deterioration; or
 - (e) openings which are not secured against infiltration of:
 - (i) air;
 - (ii) precipitation; or
 - (iii) both (i) and (ii).

Duty to advise of hazardous condition

9. If an *owner* of a *building* becomes aware of the existence of a *hazardous condition* at the *building*, the *owner* must immediately:
- (a) take steps to remedy or mitigate the *hazardous condition*; and
 - (b) advise the *Chief Building Official* in writing of the existence of the *hazardous condition*.

Other Structures

10. Notwithstanding that a building or structure is less than five storeys above *grade*, the *Chief Building Official* may require that the *building envelope* of the building or structure be visually assessed in accordance with this Bylaw and that a Building Exterior Visual Assessment for the building or structure be provided to the *Chief Building Official*.

Offences

11. Any person who contravenes any provision of this Bylaw by doing any act or thing which the person is prohibited from doing, or by failing to do any act or thing the person is required to do, is guilty of an offence pursuant to this Bylaw.

Enforcement

12. (1) Where an *officer* believes that a person has contravened any provision of this Bylaw, the *officer* may commence proceedings against the person by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34.
- (2) This section shall not prevent an *officer* from issuing a violation ticket requiring a court appearance of the defendant pursuant to the *Provincial Offences Procedures Act* or from laying an information instead of issuing a violation ticket.

Penalties

13. (1) 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.
- (2) 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.
- (3) In this section, "specified penalty" means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a Court appearance.

Remedying Contraventions

14. (1) Where a person has contravened any provision of this Bylaw, a remedial order may be issued pursuant to section 545 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 requiring the person to remedy the contravention.
- (2) A remedial order issued pursuant to subsection (1) is subject to the provisions of Part 2 of the Community Standards Bylaw 5M2004.

Coming into force

15. This bylaw comes into force on January 1, 2017.

READ A FIRST TIME THIS ____ DAY OF _____, 2016.

READ A SECOND TIME THIS ____ DAY OF _____, 2016.

READ A THIRD TIME THIS ____ DAY OF _____, 2016.

MAYOR
SIGNED THIS ____ DAY OF _____, 2016.

CITY CLERK
SIGNED THIS ____ DAY OF _____, 2016.

SCHEDULE "A"

PENALTIES

Section	Description of Offence	Minimum Penalty	Specified Penalty
3(1)	Failure to visually assess <i>building</i> condition	\$1000	\$2500
3(2)	Failure to have visual <i>roof</i> assessment conducted by a qualified person	\$1000	\$2500
3(3)	Failure to have visual <i>wall</i> assessment conducted by a qualified person	\$1000	\$2500
3(4)	Failure to record results on prescribed form	\$1000	\$2500
3(5)	Failure to record qualifications on prescribed form	\$1000	\$2500
6(1)	Failure to retain Building Exterior Visual Assessments	\$1000	\$2500
6(2)	Failure to transfer Building Exterior Visual Assessments to new <i>owner</i>	\$1000	\$2500
7	Failure to provide Building Exterior Visual Assessment to <i>Chief Building Official</i> upon request	\$1000	\$2500
8(1)	Failure to keep <i>building envelope</i> in good repair and free from <i>hazardous conditions</i>	\$2500	\$5000
9(a)	Failure to remedy or mitigate a <i>hazardous condition</i>	\$2500	\$5000
9(b)	Failure to advise <i>Chief Building Official</i> of <i>hazardous condition</i>	\$2500	\$5000