

A BY-LAW INTRODUCED FOR THE PURPOSE OF CONTROLLING NUISANCES, UNTIDY AND UNSIGHTLY PREMISES WITHIN THE VILLAGE OF ROSALIND.

WHEREAS pursuant to the *Municipal Government Act*, Chapter M-26 of the revised statutes of Alberta, 2000, the Council may enact by laws preventing and compelling the abatement of nuisances generally and regulating untidy and unsightly premises; and

WHEREAS the Council of the Village of Rosalind deems it advisable, in the public interest, to enact such a by-law;

THEREFORE, the Council of the Village of Rosalind, pursuant to the authority conferred upon it by the laws of the Province of Alberta, enacts as follows:

1. **Citation**

This bylaw may be cited as the “Nuisance and Unsightly Premises Bylaw”.

2. **Definitions**

In this Bylaw, the following definitions will apply:

- (a) **“Abandoned Equipment”** means equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition, and includes any household appliance stored outside of a residence or other building regardless of whether or not in an inoperative condition.
- (b) **“Abandoned Vehicle”** means the whole or part of any motor vehicle or farm implement that:
 - i. is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition, and is not located in a building or located on the property such that it can be concealed from view; or
 - ii. has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year; and
 - iii. is inoperative by reason of removed parts or equipment, and is not located within a building or located on a property such that it can be concealed from view.
- (c) **“Animal Material”** means any animal excrement and includes all material accumulated on premises from pets, pens, yards and kennels or any other building or structure used to house animals.

- (d) **“Boulevard”** means that portion of a street which lies between the roadway and the property line of the land abutting the said street.
- (e) **“Clean Up Notice”** means an order issued under this Bylaw by an Enforcement Officer or the Municipal Administrator with respect to an unsightly property in the Village.
- (f) **“Council”** means the municipal Council of the Village of Rosalind.
- (g) **“Enforcement Officer”** means a Community Peace Officer, Bylaw Enforcement Officer or Police Officer with authority to enforce the bylaws of the Village of Rosalind. MGA Section 555 & 556
- (h) **“Litter”** means all solid or liquid wastes, including, but not limited to, abandoned equipment or vehicles as described in Section 2. (a) and (b), bottles, broken dishes, cans, the whole or any part of any animal carcass, cardboard, cast-off clothing, chemicals, containers, disassembled equipment, discarded fabrics or household goods, glass, fuels, hazardous materials, human excrement, garbage, manure, organic and inorganic yard, and garden waste, petroleum products, tires, utensils, waste paper and any other form of waste, refuse or litter.
- (i) **“Municipal Administrator”** means the person appointed as Chief Administrative Officer by the Council of the Village of Rosalind, or his or her designate.
- (j) **“Municipal Tag”** means a document alleging an offense issued pursuant to a Bylaw of the Village.
- (k) **“Nuisance”** means any condition or use of Property which, in the opinion of the Enforcement Officer, Municipal Administrator or Council constitutes an unreasonable interference with the use of enjoyment of other Property and includes, without limiting the foregoing, those conditions set out in Section 3.
- (l) **“Occupant”** means any person occupying or having control over the condition of any property and the activities conducted on any property, be such person the owner, lease, tenant or agent of the owner or whether such person resides thereon or conducts business thereon.
- (m) **“Owner”** means a person having title to or legal possession of any property or who possesses property under a purchase agreement.
- (n) **“Person”** includes a corporation, an individual, and the heirs, executors, administrators or other legal representative of an individual.
- (o) **“Property”** means any lands, buildings, structures or premises, or any personal property located thereupon, within the municipal boundaries of the Village of Rosalind.

- (p) **“Reasonable State of Repair”** means the condition of being:
 - i. structurally sound
 - ii. free from damage
 - iii. free from rot or other deterioration; and
 - iv. safe for its intended use.
- (q) **“Structure”** means a building, improvement or other thing erected or placed in, on, over or under land.
- (r) **“Unsightly Premises”** means any Property, whether land, buildings, improvements to lands or buildings, personal property, or any other combination of the above, located within the Village of Rosalind that in the opinion of an Enforcement Officer, Municipal Administrator or Council is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding properties in a reasonable proximity to the unsightly premises, or is otherwise detrimental to the surrounding area, or in an unsightly conditions as defined by the *Municipal Government Act. Section 550*.
- (s) **“Village”** means the Village of Rosalind in the Province of Alberta.

3. Prohibitions

- (a) An Owner or Occupant of a Property shall not cause or allow that Property or the use of that property to constitute a Nuisance.
- (b) An Owner or Occupant of Property shall not cause or allow that Property to be a danger to public safety or an Unsightly Premise.
- (c) No Person shall cause, permit or allow, Litter, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or be stored upon Property owned or occupied by that Person, or any Person under their responsibility.
- (d) No Person shall cause, permit or allow Litter, Abandoned Equipment or Abandoned Vehicles to accumulate on their property within the Village, except in appropriate containers provided for the temporary storage of refuse or other waste materials for picking up and/or disposal at a sanitary landfill, recycling center or other waste management facility.
- (e) Conditions constituting a Nuisance, danger and/or Unsightly Premise may include, but shall not be limited to:
 - i. the accumulation of Litter, rubbish, animal material, yard material, ashes or scrap building material or other waste products on the Property;
 - ii. uncut grass or the presence of weeds, which in the opinion of the Enforcement Officer, or Municipal Administrator, are excessive or which demonstrate neglect by the Owner;
 - iii. the accumulation of Abandoned Vehicles, Abandoned Equipment or household appliances;

- iv. the presence or accumulation of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
 - v. the presence of trees, shrubs, or other vegetation that interferes with municipal works or any public utilities or cause damage to an adjacent property, including municipal property, and shall include the obstruction of a sidewalk, road, alley or public place;
 - vi. the failure to keep Property in a Reasonable State of Repair; and
 - vii. the presence of excavations, structures, materials or any other hazard or condition which poses a danger to public safety, including a depression, drain, ditch, watercourse, pond, surface water or other matter or thing;
 - viii. the lack of repair or maintenance of buildings, structures or Property, including but not limited to:
 - a. the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements;
- (f) No Person shall place, deposit, throw or cause to be place, deposited or thrown any Litter upon the street, land, sidewalks, parking lots, park, playground, or other public place or water course or on Property not his/her own, except in a receptacle provided for such purposes.
- (g) All private or general contractors shall, during the construction, renovation or demolition of a building, keep the land in a Reasonable State of Repair so as not to constitute a Nuisance or Unsightly Premise and shall secure all manner of material so as to prevent it from blowing onto any other Property.
- (h) No Person shall cause or permit any or opaque or dense dust to be emitted to the atmosphere from any operations on the Property of such Person.
- (i) All outdoor commercial salvage yards, auto wreckers or other businesses that by their nature appear to be untidy or unsightly shall be obscured from view by approved screening from the surrounding property.
- (j) No Person shall place, pile or store any material or equipment on Village owned Property without first obtaining approval from the Village Office for such purposes.
- (k) Trees whose branches overhang a public sidewalk or road shall be pruned from the bottom to a height of seven (7) feet and trees whose branches overhang an alley or lane shall be pruned from the bottom to a height of nine (9) feet so as to allow unobstructed flow of traffic.

4. Inspection and Enforcement

- (a) For the purpose of inspections and enforcement under this Bylaw, an Enforcement Officer or Municipal Administrator is a Designated Officer.
- (b) A Designated Officer may enter any Property in the Village in order to carry out an inspection, enforcement, or other action required or authorized by this Bylaw, the *Municipal Government Act*, or any other statute.
- (c) Before conducting an inspections or enforcement under Section 4 (b), a Designated Officer shall provide the Owner or Occupant of the Property with reasonable notice as required by the *Municipal Government Act*.
- (d) Where contravention of this Bylaw has occurred, or is occurring, a Designated Officer may issue a Clean Up Notice to the Owner of the Property, or any other Person responsible for the contravention, or both of them.
- (e) A Clean Up Notice by a Designated Officer under Section 4 (d) may:
 - i. direct the Person to whom the Notice is issued to stop doing something, or change the way that they are doing that thing;
 - ii. direct the Person to take any action or measure necessary to remedy the contravention of the Property or Structure, including, but not limited to improving the appearance of the Property or Structure, cutting or removing trees or other vegetation, and removing or demolishing a structure or building that is in contravention of this Bylaw;
 - iii. state a time period within which the Person must comply with the directions stated in the Notice;
 - iv. state that if the Person does not comply with the directions provided in the Notice within a specific time, the Village may take action or measure reasonably necessary to remedy the contravention and may charge the Person for costs incurred to remedy the contravention.
- (f) A Clean Up Notice under this Bylaw may be served:
 - i. in the case of an individual:
 - a. personally to the individual, or
 - b. by leaving it for the individual at his/her residence with a Person on the premises who appears to be at least eighteen (18) years of age, or
 - c. by mailing a copy to the last known address of the individual.

- ii. in the case of a partnership or corporation, personally, or by registered mail to either the registered office or business office of the partnership or corporation.
- (g) Notwithstanding Section 4 (f), a copy of the Clean Up Notice may be posted in a conspicuous place on the Property referred to in the Notice if service cannot otherwise be affected.

5. Recovery of Costs

- (a) The costs of any action or measure taken by the Village under this Bylaw are an amount owing to the Village by the Owner of the Property or any other Person responsible for the contravention, or both of them.
- (b) If the Village sells all or part of a Structure, piece of equipment, vehicle or building that has been removed under this Bylaw, the proceeds of the sale must be used to pay the costs of the removal and any excess proceeds must be paid to the Person entitled to them.
- (c) The costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt or, in the case of a Clean Up Notice, issued to an Owner where all or a portion of the contravention occurred on the Owner's Property, added to the tax roll of the Property that is the subject of the enforcement proceedings under this Bylaw.
- (d) The Village may register a caveat under the *Land Titles Act* in respect of a Notice issued under this Bylaw against the certificate of title for the Property that is the subject of the Notice.
- (e) If the Village registers a caveat under Section 5 (d), the Village must discharge the caveat when the Notice has been complied with or when the Village has performed the actions or measure referred in the Notice.

6. Offence and Penalties

- (a) A Person who contravenes any provision of this Bylaw is guilty of an offence.
- (b) A Person who is guilty of an offence is liable to a fine in the amount of three hundred dollars (\$300) of the first offence; and five hundred dollars (\$500) for any subsequent offences committed within twelve (12) months of the first offence.

7. Municipal Tag

- (a) An Enforcement Officer is authorized and empowered to issue a Municipal Tag to any person who the Enforcement Officer or Animal Control Officer has reasonable and probable grounds to believe has contravened a provision of this Bylaw.

- (b) A Municipal Tag may be issued to such Person
 - i. either personally;
 - ii. or by mailing a copy to such Person at his/her last known address.
- (c) The Municipal Tag shall be in a form approved by the Municipal Administrator and shall state:
 - i. the name of the Person;
 - ii. the offence;
 - iii. the specified penalty established by this Bylaw for the offence;
 - iv. that the penalty shall be paid within 14 days of the Municipal Tag; and
 - v. any other information as may be required by the Municipal Administrator.

8. Payment in Lieu of Prosecution

Where a Municipal Tag is used pursuant to this Bylaw, the person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village, the penalty specific within the time period on the Municipal Tag.

9. Voluntary Payment

Where a Municipal Tag is used pursuant to this Bylaw, the person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village, the penalty specified within the time period on the Municipal Tag.

10. Duty to Enforce

The Village of Rosalind is not required to enforce this Bylaw. In determining whether to enforce this Bylaw, the Village may take into account any practical concerns including available budget and personnel resources.

11. Severability and Coming into Force

- (a) Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of this Bylaw shall be maintained.
- (b) Bylaw 85 and all amendments thereto, are hereby rescinded.
- (c) This Bylaw shall come into force upon receipt of its third and final reading.
- (d) Pursuant to Section 63(1) of the *Municipal Government Act*, Chapter M-26 of the revised statutes of Alberta, 2000, authorizes the revision of all or any of the bylaws of the municipality.

THIS BY-LAW to become effective on the day of the final passing thereof.

READ A FIRST TIME IN COUNCIL THIS 21st DAY OF November, 2016.

READ A SECOND TIME IN COUNCIL THIS 8th DAY OF December, 2016.

READ A THIRD TIME IN COUNCIL THIS 8th DAY OF December, 2016.

Mayor

Municipal Administrator