

VILLAGE OF ALIX

BYLAW No. 322/03

Being a Bylaw of the Village of Alix, in the Province of Alberta, to regulate untidy and unsightly property and for the prevention of nuisances generally.

WHEREAS under the authority of the *Municipal Government Act*, being Chapter M-26.1 of the revised statutes of Alberta and amendments thereto, a Council may pass bylaws for the municipal purposes respecting nuisances, including unsightly property,

NOW THEREFORE the Council of the Village of Alix, in the Province of Alberta, duly assembled, enacts as follows:

1. This Bylaw may be cited as the “Nuisance Bylaw”.
2. In this Bylaw, the following definitions will apply:
 - a) “Boulevard” means that portion of a street which lies between the roadway and the property line of the land abutting the said street.
 - b) “Council” means the Council of the Village of Alix.
 - c) “Bylaw Enforcement Officer” means a person authorized by Council to carry out the provisions of this Bylaw, or the Municipal Administrator of the Village of Alix, or a member of the Royal Canadian Mounted Police.
 - d) “Litter” means:
 - i) any solid or liquid material or product or combination of solid or liquid materials or product, including, but not limited to:
 - any rubbish, refuse, garbage, paper, package, container, bottle, can, manure, human or animal excrement or sewage or the whole or a part of an animal carcass, or
 - the whole or part of any article, raw or processed material, motor vehicle or parts, or other machinery that is disposed of or that is not currently in use.
 - e) “Municipal Administrator” means a person appointed as such under *The Municipal Government Act* by the Village of Alix Council.
 - f) “Nuisance” means any condition of use of property which, in the opinion of a designated officer, the Municipal Administrator, or the Municipal Council, constitutes an unreasonable interference with the use and enjoyment of other property within the Village.

- g) “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, lessee, tenant or agent of the owner or whether such person resides thereon or conducts a business thereon.
- h) “Owner” means a person having title to or legal possession of any property or who possesses property under a purchase agreement.
- v) “Rubbish” means and includes any paper product, or fabric, or wood, or plastic, or glass, or metal and/or any matter of substances of any kind which has been discarded, or abandoned, or in any way disposed of.
- j) “Village” means the Village of Alix.
- k) “Untidy” or “Unightly Premises” means any property, whether land, buildings, improvements to lands of buildings, personal property, or any other combination of the above, located on land within the Village that, in the opinion of a Designated Officer, the Municipal Administrator, or Municipal Council 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 premises, or which is otherwise detrimental to the surrounding area or an unsightly condition as defined by the *Municipal Government Act*.

3. REGULATIONS

- a) Every occupant or owner of any property within the Village of Alix shall:
 - i) not permit the land or premises of such property to be or remain to be a nuisance, untidy or unsightly.
 - ii) not permit any building structure or erection of any kind whatsoever, or any excavation, depression, drain or ditch, watercourse, pond, surface water or other matter or thing to remain a nuisance and/or danger to the public safety or health.
 - iii) cut the grass on the property they own or occupy and cut the grass on any boulevard which abuts, flanks or adjoins such property, including lanes and alleys at the rear or side of such property, with sufficient frequency to ensure that the grass does not exceed 10 cm in height.

- iv) control weeds on property they own or occupy and to control weeds on any boulevard which abuts, flanks or adjoins such property and this shall include lanes or alleys at the rear or side of such property.
- v) prune, remove or otherwise maintain trees and shrubs that interfere with or endanger lines, poles, pipes, sewers, sidewalks, streets and alleyways or other works of the Village or Public Utility within or on the such property.
- vi) not permit the accumulation of dirt, stones, old implements, automobiles, and parts of automobiles, scrap iron, lumber, building materials or any other rubbish so as to cause any untidy or unsightly condition or hazard or nuisances within or on such property.
- vii) remove from such property any dead grass or brush or other rubbish which may be untidy or unsightly.
- viii) when requested to do so by written notice from the Village, clean up an untidy or unsightly property within the time period set out in the notice.

4. CONTROL OF LITTER

- a) No person shall place, deposit, throw or cause to be placed, deposited or thrown, any litter upon any street, land, sidewalk, parking lot, park, playground or other public place or water course or on property not his own, except in a receptacle provided for such purpose.
- b) All private or general contractors shall during the construction, renovation, or demolition of a building, keep the land in a reasonable condition so as not to constitute a nuisance and shall secure all manner of debris so as to prevent it from blowing onto any other private or public property.
- c) A person who has placed, deposited or thrown or cause to be placed, deposited or thrown, any litter upon any street, lane, sidewalk, parking place, park, playground or other public place or water course or on any property not his own, shall forthwith remove it.

5. DUST IN THE AIR

- a) No person shall cause or permit any opaque or dense dust to be emitted to the atmosphere from any operations on the premises of such person.

6. SALVAGE YARDS FENCED

- a) All outdoor salvage yards, auto wreckers or other businesses which by their nature, appear to be untidy or unsightly, shall be obscured from view by approved screening from surrounding property.

7. PILING, STORING MATERIAL OR EQUIPMENT ON VILLAGE PROPERTY

- a) No person shall place, pile or store any material or equipment on Village owned property without first obtaining approval for such purposes from the Village.
- b) Any person placing, or causing to be placed, any litter, rubbish, material or equipment on any Village property without first obtaining approval shall remove, or cause the removal thereof, within twenty-four (24) hours.

8. ENFORCEMENT

- a) Upon reasonable notice given to the owner or occupant of any land, building, or premises, the Bylaw Enforcement Officer is authorized to enter any land, building or premises to inspect for any untidy or unsightly condition or any other condition that may contravene the provisions of this Bylaw.
- b) When, in the opinion of the Bylaw Enforcement Officer, a condition exists which contravenes any of the provisions of this Bylaw, the Bylaw Enforcement Officer may issue a written order consistent with Section 545 of the *Municipal Government Act*, if issued with respect to a nuisance, and consistent with Section 546 of the *Municipal Government Act*, if issued with respect to a dangerous or unsightly premises. The time allowed to rectify the condition will be at the discretion of the Bylaw Enforcement Officer, but will not be less than seven (7) days. An extension may be granted on the number of days originally indicated in the written notice as the time allowed to rectify the condition, if, in the opinion of the Bylaw Enforcement Officer or Municipal Council, the extension is warranted.
- c) An order issued pursuant to Subsection 8. b) shall be served on the owner and/or occupier personally or by registered mail sent to the person's last known address as shown on the tax roll of the Village.
- d) Should any property owner and/or occupier fail, neglect or refuse to remedy the conditions as directed in the said Order pursuant to Subsection 8. b), the Village may cause the work to be performed to remedy the condition and charge the cost of such work done to the owner and/or occupier, and in default of payment,

- i) recover the cost as a debt due to the Village by service of a statement of expenses and demand of payment for work carried out on land specified in the notice to the owner of the land.
 - ii) if the owner of the property fails to pay the amount of the statement within thirty (30) days of the mailing of such statement, the Municipal Administrator may cause the amount owing to be placed on the tax roll as an additional tax against land concerned and it shall be collected in the same manner as taxes.
- e) Any person who enters property to remedy a condition as directed by the Village shall be deemed to have the authorization of the Village and shall not incur any liability thereof.

9. APPEAL PROCEDURE

- a) a person who received a written clean-up order under this Bylaw may request Council to review the clean-up order by delivering a written request to the Municipal Administrator within fourteen (14) days of the date the clean-up order was sent.
- b) After reviewing the clean-up order, Council may confirm, vary, substitute or cancel the order.
- c) Appeal of Council's decision may be made by a person affected by the decision of Council:
 - i) under Section 545 of the *Municipal Government Act* with respect to a nuisance, to the Court of Queen's Bench within thirty (30) days of the date the decision is sent to the person, or
 - ii) under Section 546 of the *Municipal Government Act* with respect to dangerous or unsightly premises, to the Court of Queen's Bench within fifteen (15) days of the date the decision is sent to the person, if
 - A) the procedure required to be followed by this Bylaw is not followed, or
 - B) the decision is patently unreasonable.
- d) The application for the appeal to the Court of Queen's Bench must state the reason for the appeal.

- e) For the information of the appellant, the Court of Queen's Bench may:
 - i) confirm the decision of the Council.
 - ii) declare the decision of the Council invalid and send the matter back to Council, with direction.

10. PENALTIES

- a) Any person who breaches a provision of this Bylaw shall be guilty of an offence and shall be liable upon summary conviction to a fine of not less than Five Hundred (\$500.00) Dollars and not more than Fifteen Hundred (\$1,500.00) Dollars.
- b) A Bylaw Enforcement Officer is hereby authorized and empowered to issue a violation tag to any person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened by provision of this Bylaw.
- c) A violation tag shall be served upon a person personally, or in the case of a corporation, by serving the violation tag personally upon the manager, secretary or other executive officer, or a person apparently in charge of a branch office, by mailing a copy to such person by registered mail, or in the case of an individual, by leaving it with a person on the premises who has the appearance of being at least Eighteen (18) years of age.
- d) A violation tag shall be in a form approved by the Municipal Administrator and shall state:
 - i) the name of the owner and/or occupant of the property;
 - ii) a description of the property;
 - iii) the offence;
 - iv) the appropriate penalty for the offence as specified in this Bylaw;
 - v) that the penalty shall be paid within Fourteen (14) days of the issuance of the violation tag in order to avoid further prosecution; and
 - vi) any other information as may be required by the Municipal Administrator.

- e) Where a violation tag has been issued pursuant to subsection 10(b), the person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the municipal office of the Village, the penalty specified on the violation tag.
- f) In those cases where a violation tag has been issued and the penalties specified on the violation tag have not been paid within the prescribed time, then a Bylaw Enforcement Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000, c.P-34, as amended or repealed and replaced from time to time.
- g) Notwithstanding subsection 10(b) of this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a violation ticket to any person to whom the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- h) The voluntary payment, pursuant to Subsection 10. b) shall be as follows:
 - i) for a first offence in a calendar year - \$50.00 (Fifty dollars)
 - ii) for a second offence in a calendar year - \$100.00 (One hundred dollars)
 - iii) for a third or subsequent offence in a calendar year - \$200.00 (Two hundred dollars)
- i) If an alleged offender does not voluntarily pay the penalty amount as set out in Subsection 10. h), then such person may, by summons, be required to appear in court and shall be liable on summary conviction to pay a fine, pursuant to Subsection 10. a).

11. SEVERABILITY

- a) Should any section or part of this Bylaw be found to have been improperly enacted or ultra vires for any reason, then such section or part shall be regarded as being severable from this Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted has not been enacted as part of this Bylaw.

