

Village of Delia
Province of Alberta
By-Law #596-12

Being a bylaw of the Village of Delia, Alberta to regulate, control and abate nuisances, including dangerous and unsightly premises.

WHEREAS the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta, 2000 as amended, Section 7, grants municipalities the responsibility to pass bylaws respecting nuisances generally including unsightly premises,

AND WHEREAS the Council of the Village of Delia deems it expedient and in the public interest to pass a bylaw to establish and enforce minimum standards relating to the state of repair and maintenance of property and to regulate, control and abate nuisances, including unsightly premises, within the municipal boundaries,

NOW THEREFORE the Council of the Village of Delia, duly assembled, enacts as follows:

Short Title

1 The short title of this Bylaw shall be the "Unsightly Properties".

Definitions

2 In this Bylaw the following words shall be defined as:

- (a) "Act" means the *Municipal Government Act*, Chapter M-26, Revised Statutes of Alberta, 2000 as amended.
- (b) "Adjacent" means land that is contiguous to the land that is the subject of a complaint and includes land or a portion of land that would be contiguous if for a public road, railway, right-of-way, public utility lot or reserve lot.
- (c) "Abandoned Equipment" means equipment or machinery, which has been rendered inoperative by reason of its disassembly, damage, age or mechanical condition, or any household appliance stored outside of a residence or other structure regardless of whether or not it is in an inoperable condition.
- (d) "Abandoned Vehicle" means the whole or any part of any motor vehicle that is in a rusted, wrecked, partially wrecked, dismantled, partly dismantled, or inoperative condition, and is not located within a structure or located on a premises such that it can be concealed from view.

- (e) "Committee" means a council committee referred to as the "Community Standards Committee"
- (f) "Council" means the Council of the Village of Delia.
- (g) "Designated Officer" means a person as described in Section 210 of the *Municipal Government Act*.
- (h) "Fence" includes a privately-built fence and a developer-built community screening fence.
- (i) "Good Repair" means a condition where something is free from:
 - (i) Significant damage;
 - (ii) Rot or other significant deterioration
 - (iii) Openings which are not secured against trespassers or infiltration or air and precipitation.
- (j) "Nuisance" means a condition, or the use of, or an emission from property which, in the opinion of the Designated Officer, constitutes an unreasonable interference with the use and enjoyment of other private or public property, and includes unsightly premises.
- (k) "Occupant" means any person other than the Owner who is in possession of the premises, including, but not limited to a licensee, tenant or agent of the Owner.
- (l) "Owner" means:
 - (i) Any person registered as the Owner of a premises under the *Land Titles Act*;
 - (ii) A person who is recorded as the Owner of a premises on the Assessment Roll of the Village;
 - (iii) A person who has become the beneficial Owner of the premises, including by entering into a Purchase and Sale Agreement, whether they have purchased or otherwise acquired directly from the Owner or from another Purchaser, and who has not yet become the registered Owner thereof;
 - (iv) A person holding himself as the person exercising the power of authority of Ownership or, who for the time being exercises the powers and authority of Ownership over the property;
 - (v) A person in control of a premises under construction; or
 - (vi) A person who is the Occupant of the premises under a lease, license or permit.
- (m) "Person" means a corporation, partnership or individual and the heirs, executors, administrators or other legal representative of an individual.

- (n) "Premises" means and includes all land, buildings, excavations, stockpiles, structures and accessory buildings, or any personal property located there upon, within the municipal boundaries of the Village.
- (o) "Refuse" means:
- (i) All solid and liquid waste, and debris, junk or effluent belonging to or associated with a house or household or any industry, trade or business;
 - (ii) Vehicle parts or accessories;
 - (iii) Furniture, appliances, machinery or parts thereof;
 - (iv) Animal excrement; and
 - (v) Any unused or unusable material that by reason of its state, condition or excessive accumulation, in the opinion of the Designated Officer:
 - 1. Appears to have been discarded or abandoned; or
 - 2. Appears to be useless or of no particular value; or
 - 3. Appears to be used up or worn out in whole or in part.
- (p) "Structure" includes any building, retaining wall, scaffolding, garbage container, trailer, mobile home, shed or portable shack.
- (q) "Unsightly Condition" means any premises, whether land, buildings, improvements to lands and buildings, or any other combination of the above, located within the Village that, in the opinion of the Designated Officer, is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding premises in reasonable proximity to the unsightly premises, or is otherwise detrimental to the surrounding area or in an unsightly condition as defined by the *Municipal Government Act*.
- (r) "Village" means the Village of Delia or its duly authorized representatives.

Conditions

- 3 An Owner or Occupant of Premises shall not cause or allow that Premises or the use of that Premises to constitute a Nuisance.
- 4 An Owner or Occupant of Premises shall not cause or allow that Premises to become a danger to public safety or an Unsightly Premises.
- 5 No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to collect, accumulate or to be stored upon premises owned or occupied by him.
- 6 No Person shall cause, permit or allow Refuse, Abandoned Equipment or Abandoned Vehicles to accumulate in any building or structure within the Village, except in appropriate containers provided for the temporary storage of Refuse or other waste materials for pick-up and disposal at a sanitary landfill, recycling centre or other waste management facility, or except as otherwise permitted pursuant to a statute or this, or another bylaw.

7 A Nuisance or Unsightly Condition may include, but are not limited to:

- a. The accumulation of Refuse or other waste products on the Premises;
- b. Uncut grass or the presence of weeds, which in the opinion of the Designated Officer, are excessive or which demonstrate neglect by the Owner or Occupant of the Premises, which Premises is to include the land at the front of the Premises to the centre of the roadway and that land at the back of the Premises to the centre of the alley, if applicable;
- c. The accumulation of animal material, yard material, ashes or scrap building material;
- d. The presence or accumulation of an Abandoned Vehicle or Vehicles, Abandoned Equipment or household appliances;
- e. The presence of shrubs, trees, weeds or other vegetation which, as a result of its location on the Premises has caused or is causing damage to adjacent properties, or which is obstructing a sidewalk, highway or public place, including the obstruction of sight lines desirable for the safe operation of motor vehicles on a highway within the Village;
- f. The flow of water from a hose, eaves trough, or downspout or similar device on the Premises positioned such that it is likely that the water from the hose, eaves trough, downspout or similar device will enter the Adjacent Premises or property;
- g. The flow of water from a hose, eaves trough or downspout or similar device on the Premises positioned such it is likely to be directed over a public sidewalk so as to be hazardous to any Person;
- h. The accumulation of building materials, whether new or used unless the Owner or Occupant can establish that a construction or renovation undertaking is being carried out on the Premises and that the undertaking has begun or the beginning of the work is imminent and that the material is stacked or stored in an orderly manner;
- i. The failure to dispose of Refuse or other waste products accumulating in temporary containers upon the Premises;
- j. The failure to keep a Premises in a Reasonable State of Repair, including a lack of repair or maintenance of buildings, structures or Premises, when such conditions may create a danger to public safety, in the opinion of the Designated Officer.
- k. Any form of scrap, litter, trash, or waste of any kind.

8 In determining whether Premises are a Nuisance or constitute an Unsightly Condition, a Designated Officer may have regard to the use and location of the Premises.

9 No Owner or Occupier of a Premise shall allow a structure or fence to become a safety hazard.

Nuisance Complaint Process

10 A Designated Officer may investigate any complaint received in relation to any Nuisance or Unsightly Premises. Such investigation may include but is not limited to a drive by

inspection of the Premises or an inspection of the Premises pursuant to section 542 of the Act.

- 11 Any complaint received by the Designated Officer must be written and signed.
- 12 A Designated Officer, upon determining that a Premise is a Nuisance or Unsightly Premises, may issue a warning or an Order to the Owner, Occupant, Person responsible for the contravention or any or all of them.

Enforcement

- 13 A Designated Officer may, for the purposes of ensuring that the provisions of this Bylaw are being complied with, enter upon any Premises or into any structure, in accordance with Section 542 of the Act, in order to carry out an inspection, enforcement or other action required or authorized by this bylaw, the Act, or any other statute.
- 14 Before conducting an inspection pursuant to section 11, a Designated Officer shall provide the Owner or Occupant of the Premises with reasonable notice as required by the Act. For the purpose of this bylaw, FORTY EIGHT (48) HOURS is deemed to be reasonable notice.
- 15 Where a contravention of this Bylaw has occurred or is occurring, a Designated Officer may issue an Order to the Owner, Occupant, or Person responsible for the contravention, or any or all of them, pursuant to Section 545 of the Act.
- 16 An Order issued by a Designated Officer under Section 15 may, in the case of a Nuisance or Unsightly Premises:
 - a. Direct the Person to whom the Order is issued to stop doing something, or change the way in which the Person is doing that thing;
 - b. Direct the Person to take any action or measure necessary to remedy the contravention of this Bylaw, including but not limited to the cessation of an activity, the cutting or removal of trees, shrubs and foliage, and the removal or demolition of the structure or improvement that is in contravention of this Bylaw and, if necessary, to prevent the reoccurrence of the contravention.
- 17 Every Order written with respect to this bylaw must:
 - a. Indicate the Person to whom it is directed;
 - b. Identify the property to which the Order relates by municipal address or legal description;
 - c. The date that it is issued;
 - d. Identify how the Premises fails to comply with this or another Bylaw;
 - e. Identify the specific provisions of the Bylaw the Premises contravenes;
 - f. Identify the nature of the remedial action required to be taken to bring the Premises into compliance;
 - g. Identify the time within which the remedial action must be completed;

- h. Indicate that if the required remedial action is not completed within the time specified, the Village may take whatever action or measures are necessary to remedy the contravention;
 - i. Indicate that the expenses and costs of any action or measures taken by the Village under this section are an amount owing to the Village by the Person to whom the Order is directed;
 - j. Indicate that the expenses and costs referred to in this section may be attached to the tax roll of the property if such costs are not paid by a specific time;
 - k. Indicate that an appeal lies from the Order to the Community Standards committee, if a Notice of Appeal is filed in writing with the Village within FOURTEEN (14) days of the receipt of the Order.
- 18 Any expenses or costs of any action or measure taken by the Village pursuant to this Bylaw are an amount owing to the Village by the Owner, Occupant or any other Person responsible for the contravention, or any or all of them.
- 19 If the Village sells all or a part of a structure or improvement, or the contents of a structure or improvement, that have been removed pursuant to this Bylaw, the proceeds of the sale must be used to pay the expenses and costs incurred by the Village in the enforcement of the Order issued, and any excess proceeds must be paid to the Owner, Occupant or Person responsible for the contravention, if entitled to them.
- 20 The expense and costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt or added to the tax roll for the Premises pursuant to the Act.
- 21 The Village may register a caveat pursuant to the *Land Titles Act* and the Act in respect to any Order issued under this Bylaw, against the Certificate of title for the Premises that is subject to the Order.
- 22 If a Caveat is registered pursuant to section 21 of this Bylaw, the Village must discharge the Caveat when the Order has been complied with, or when the Village has performed the actions or measures necessary to remedy the contravention as stated in the Order.
- 23 An Order issued pursuant to this Bylaw is deemed to have been served on the Person whom it is addressed when the Order has been:
- a. In the case of an individual, delivered personally to the individual, or left for the individual at his or her residence with a Person on the Premises who appears to be at least eighteen (18) years of age; or
 - b. Upon confirmation of receipt of the Order by the Person to whom it is addressed by registered mail; or
 - c. In the case of a partnership or corporation, by registered mail or personal delivery to either the registered office or business address of the partnership or corporation; or
 - d. In the event that the Village is unsuccessful in its attempts to serve the Order pursuant to sections a., b., or c. above, a Designated Officer may post a copy of the

Order in a conspicuous place on the Premises referred to in the Order, when the Designated Officer has reason to believe that the Person to whom the Order is addressed is evading service, and that there is no other reasonable means of service available.

24 The Village is not required to enforce this Bylaw. In deciding whether to enforce the Bylaw, the Village may take into account any practical concerns, including available municipal funds and personnel resources.

Appeal/Review

25 A person to whom an Order is issued pursuant to section 15 may request a review of the Order by written notice to the Committee within FOURTEEN (14) days of the date on which the Order is received by that Person. Upon review of the Order, the Committee may confirm, vary, substitute or cancel the Order.

26 If an Order is to be reviewed by the Committee under section 26, the Committee shall:

- a. Set a time and place to hear the review; and
- b. Notify the Person to whom the Order was issued of the time and place of the review.

27 The Committee hearing an appeal under section 25 is not required to hear from any Person other than a Person notified pursuant to section 16.

28 Any Order confirmed, varied or substituted by the Committee under this part shall require the Person to whom the Order is issued to remedy the contravention within a specified period of time.

Community Standards Committee

29 The Community Standards Committee of the Village of Delia is hereby established.

30 The Community Standards Committee shall be a council committee and will consist of the current elected officials.

31 The Community Standards Committee shall be appointed at the initial Organizational Meeting of Council after an election and shall be the same time period as the election period.

32 The Community Standards Committee may review:

- a. Enforcement Orders issued by the Designated Officer pursuant to this Bylaw and section 545 of the Act;
- b. Stop Orders issued by the Designated Officer pursuant to section 546 of the Act.

33 All members of the Community Standards Committee must be present to meet quorum.

34 The Community Standards Committee may establish written rules of procedure as necessary for the conduct of its meeting, and its business that are consistent with this Bylaw, the Act, or other bylaw which may come into effect from time to time. In the event, the Community Standards Committee does not establish such rules of procedure; the Committee shall follow the same rules of procedure and/or protocol as is followed by the Municipal Planning Commission or the Village Council.

35 Any Person affected by the decision of the Community Standards Committee under section 28 may appeal to the Court of Queen's Bench of Alberta pursuant to section 548 of the Act.

Repeal


36 By-Law #33, #522-99 and Bylaw #531-00 and all amendments thereto are hereby repealed.

In Force

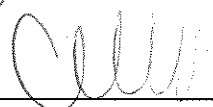
37 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of the Bylaw shall be maintained.

38 This by-law shall come into full force and effect on the day that it is finally passed by Council by giving it third and final reading and it is signed in accordance with the Act.

READ A FIRST TIME THIS 19th DAY OF DECEMBER, 2012.



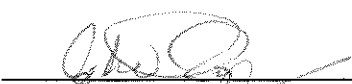
Mayor John Rogers



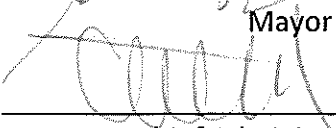
Chief Administrative Officer
Caroline Siverson

READ A SECOND TIME THIS 16 DAY OF January, 2013.

READ A THIRD TIME AND FINALLY PASSED THIS 16 DAY OF January, 2013.



Mayor John Rogers



Chief Administrative Officer
Caroline Siverson