

Village of Clive
BY-LAW #420-98
UNSIGHTLY & NUISANCE BY-LAW

BEING a By-law of the Village of Clive, 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 By-laws for the Municipal purposes respecting nuisances, including unsightly property.

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

1. This By-law may be cited as the "Unsightly Property & Nuisance By-law".

2. In this By-law, 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 Clive.
- c) **BY-LAW ENFORCEMENT OFFICER** means a person authorized by Council to carry out the provisions of this By-law, or the Municipal Administrator of the Village of Clive, 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 the Municipal Administrator for the Village of Clive appointed under By-law #370-91 of the Village or delegate.
- f) **NUISANCE** means any act, deed, omission or thing, which is or could reasonably be expected to be annoying, troublesome, destructive harmful, inconvenient, injurious to another person and/or their property or anything troublesome or bothersome to other people for which complaints are received by the Village of Clive Municipal Office and/or the Royal Canadian Mounted Police, whether or not such act, deed, omission or thing constitutes nuisance at common law.
- 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.
- i) **PEST** means any animal, bird, reptile or insect which causes or could reasonably be expected to cause annoyance or damage or injury to any person, animal or plant.
- j) **RUBBISH** means and includes any paper product, fabric, wood, plastic, glass, metal and/or any matter of substance of any kind which has been discarded, abandoned or in any way disposed of.
- k) **VILLAGE** means the Village of Clive.

l) UNTIDY OR UNSIGHTLY

means any property or part of it on which there is litter or rubbish which causes the property or any part of it to look untidy or unsightly.

m) WEEDS

means any plants designated as restricted, noxious or nuisance weeds in accordance to The Weed Control Act, being a Statute of Alberta.

3). REGULATIONS

- a) Every occupant or owner of any property within the Village of Clive 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 structures or construction 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 dangerous to the public safety or health.
 - iii) cut the grass on property they own or occupy and cut the grass 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.
 - 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) shall not permit the proliferation of any insect or other pest that is likely to spread disease, be destructive or dangerous or otherwise become a nuisance.
 - viii) remove from such property any dead grass or brush or other rubbish which may be untidy or unsightly or that may harbor pests.
 - ix) 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 caused 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 forty-eight (48) hours notice given to the owner or occupant of any land, building or premises, the By-law Enforcement Officer is authorized to enter any land, building or premises to inspect for an untidy or unsightly condition or any other condition that may contravene the provisions of this By-law.
- b) When, in the opinion of the By-law Enforcement Officer, a condition exists which contravenes any of the provisions of this By-law, the By-law Enforcement Officer may issue a written clean-up order to the owner or occupier of the property, directing that the condition be rectified within a specific length of time. Except in extraordinary situations, the maximum time allowed to rectify the condition will be fourteen (14) days from the date of the warning notice.
- c) An order issued pursuant to Section 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 Section 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 shall cause the amount owing to be placed on the tax roll as an additional tax against the 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 By-law 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 to the Court of Queen's Bench within thirty (30) days of the date the decision is sent to the person if:

- i) the procedure required to be followed by this By-law is not followed, or
- ii) the decision is patently unreasonable.
- d) The application for the application for the appeal to the Court of Queen's Bench must state the reason for the appeal.
- e) The Court of Queen's Bench may:
 - i) confirm the decision of the Council
 - ii) declare the decision invalid and send the matter back to Council with direction.

10. PENALTIES

- a) Any person who breaches a provision of this By-law shall be guilty of an offense and shall be liable upon summary conviction to a fine of not less than Five hundred (\$500.00) dollars and not more than Two thousand (\$2,000.00) dollars.
- b) **NOTWITHSTANDING** Section 10 a) a person charged with an offense pursuant to this By-law may make a voluntary payment at the Village of Clive municipal office at any time up to seven (7) days after the date of offense ticket is issued and in such case, prosecution for this offense will not proceed.
- c) The voluntary payment, pursuant to Section 10 b) shall be as follows:
 - i) First Offense in a calendar year - \$ 50.00
 - ii) Second Offense in a calendar year - \$100.00
 - iii) Third or Subsequent Offenses in a calendar year - \$200.00
- d) If an alleged offender does not voluntarily pay the penalty amount as set out in Section 10 c), 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 Section 10 a) plus all costs and court costs.

11. SEVERABILITY

- a) Should any section or part of this By-law 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 By-law and the By-law remaining after such severance shall be effective and enforceable as is the section found to be improperly enacted has not been enacted as part of this By-law.

12. RESCINDING OF BY-LAW #294

- a) This By-law rescinds By-law #294 in its entirety.

13. EFFECTIVE DATE

- a) This By-law shall come into force and effect on the final date of passing thereof.

READ a first time this 13th day of July, 1998.

READ a second time this 13th day of July, 1998.

READ a third and final time this 13th day of July, 1998.

Mayor

Municipal Administrator