



Village of Edberg

Bylaw No. 481-2022

BEING A BYLAW TO REPEAL BYLAW 446-2016, AND BEING A BYLAW OF THE VILLAGE OF EDBERG, IN THE PROVINCE OF ALBERTA TO REGULATE NUISANCES AND UNSIGHTLY AND UNTIDY PREMISES.

WHEREAS, pursuant to the Municipal Government Act, Chapter M-26, R.S.A. 2000 and amendments thereto, a Council may pass Bylaws for municipal purposes respecting nuisances, including unsightly and untidy premises.

AND WHEREAS, the Council of the Village of Edberg deems it advisable in the public interest to enact such a Bylaw

AND WHEREAS, the purpose of this Bylaw is to prevent the existence and proliferation of unsightly premises and to provide a mechanism for the remediation of a property which has become an unsightly premises.

NOW THEREFORE, the Municipal Council of the Village of Edberg, Alberta, duly assembled hereby enacts as follows:

1. Citation

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

2. Definitions

In this Bylaw, unless context otherwise requires, the term:

- (a) **“Animal Material”** means any animal excrement and may include material accumulated on premises from pet pens, yards or kennels;
- (b) **“Ashes”** means the powdery residue accumulated on premises left after the combustion of any substance and includes any partially burnt wood, charcoal or coal;
- (c) **“Authorized Person”** means the Enforcement Officer, or any other person appointed by Council to enforce the provisions of this Bylaw;
- (d) **“Boulevard”** means that portion of a street which lies between the roadway and the property line of the land abutting said street;
- (e) **“Building Material”** means all construction and demolition material accumulated on premises including materials hauled in or accumulated as a result of constructing, renovating, repairing or demolishing any structure and includes, but is not limited to earth, vegetation or rock displaced during such an activity;

- (f) **“Clean up order”** means an order issued under this Bylaw by an Enforcement Officer with respect to an Unsanitary Premises within the Village;
- (g) **“Council”** means the duly elected officers of the Village;
- (h) **“Enforcement Officer”** means a Community Peace Officer, Bylaw Enforcement Officer or Police Officer with authority to enforce the bylaws of the Village of Edberg;
- (i) **“Garbage”** means material composed of organic matter which is or may become decomposed, including the by-products from preparation, consumption or storage of food;
- (j) **Municipal Administrator** means the person appointed as the Chief Administrative Officer by the Council of the Village of Edberg, or his or her designate;
- (k) **Municipal Government Act** means the Municipal Government Act of Alberta, RSA 2000 as amended or repealed and replaced;
- (l) **Nuisance** means:
 - i. an offensive, annoying, unpleasant or obnoxious thing, object or practice that causes an intrusion or disturbance of a visual or sensory nature affecting another person’s quiet enjoyment of his or her property;
 - ii. a practice that does, or potentially could, place unnecessary stress on the infrastructure of the municipality, including, but not limited to:
 - 1. failing to install, use or maintain eaves troughs on a building connected to the municipal sewer system;
 - 2. failing to install, use or maintain downspouts or a combination of downspouts and non-porous chutes of at least 2 meters in length on buildings connected to the municipal sewer system;
 - 3. failing to provide or maintain landscaping that directs water away from a building connected to the municipal sewer system;
 - 4. using a mechanical device operated by water pressure of a municipal water system when prohibited by an Order of Council;
 - 5. excessive use of water provided by the municipality as evidenced by runoff from the property to which the water is being applied.
- (m) **“Occupant”** means any person authorized to occupy a property, including, but limited to, lessees, renters or persons visiting lessees and renters;
- (n) **“Owner”** means any person registered as the owner of the property, persons recorded as the owner of the property on the assessment roll, person who has purchased or otherwise acquired the property, persons holding themselves out as the person having the power or authority of ownership of the property or a person controlling the property under construction, and includes a corporation, an individual and their heirs, executors, administrators or other legal representatives of the individual;

- (o) “**Pest**” means any animal, bird, reptile or insect which is likely to spread disease, be destructive or dangerous, or otherwise become a nuisance or annoyance to any person, animal or plant;
- (p) “**Premises**” means any land, building or property, whether real or personal, within the municipal boundaries of the Village;
- (q) “**Property**” means anything owned by any person, whether in whole or in part, and also includes real property;
- (r) “**Real Property**” means any land and/or buildings whether occupied or not;
- (s) “**Refuse**” means old or unused appliances when located outside a building or development, or car bodies;
- (t) “**Right of Access**” means the right of an Enforcement Officer to enter onto a property to inspect the property to determine whether to issue a Clean up Order, or to allow work forces access to the property for the purposes of enforcing a Clean up Order.
- (u) “**Rubbish**” means and includes any paper product, or fabric, or wood or plastic, or glass, or metal and/or any matter of substance of any kind which has been discarded, or abandoned or in any way disposed of;
- (v) “**Street**” means any road, lane or alley and includes all land up to the property line on each side of such road, land or alley;
- (w) “**Unightly or Untidy Premises**” means a property or part of it that is detrimental to the surrounding area pursuant to the MGA, s. 546 as characterized by visual or sensory evidence of a lack of general maintenance and upkeep, or causing a decline in the market value of property in the area, including, but not limited to:
 - i. the accumulation on the premises of any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, human excrement or sewage, or the whole or part of any animal carcass, soil dirt, sand gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, or broken or discarded household goods;
 - ii. the whole or part of any motor vehicle as defined by in the Traffic Safety Act, RSA 2000, as amended or repealed and replaced from time to time, as well as any tractor or implement of husbandry:
 - 1. that has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year;
 - 2. that is inoperative by reason of disassembly, age or mechanical condition.
 - iii. equipment or machinery that has been rendered inoperative by reason of tis disassembly, age or mechanical condition and includes household appliances;
 - iv. animal material, yard material, ashes, building material and garbage as defined by this Bylaw;

- v. any building, erection or structure that is unsightly or has become ruinous or dilapidated; any structure, excavation or hole that is unsafe, unprotected or dangerous to public health or safety;
 - vi. any combination of materials that is deemed by an Enforcement Officer to be unsightly or offensive;
 - vii. In respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.
- (x) **“Weeds”** means any plant that is designated as restricted, noxious or nuisance and shall also include any fungus which may be destructive or injurious to gardens, lawns, trees or shrubs;
- (y) **“Yard”** means any open space or site, unoccupied or unobstructed;
- (z) **“Yard Waste”** means organic matter formed as a result of gardening or horticultural pursuits and includes grass clippings and tree or hedge cuttings.

3. **Buildings or Conditions Dangerous to the Public**

The Council may, by resolution, order to be demolished or removed, an unoccupied building, structure, erection, excavation or hole if by reason of its ruinous, dilapidated, unsafe or unprotected condition or location, be dangerous to public safety or health and Council may authorize a person or persons to remedy such conditions as deemed necessary by Council.

4. **Cutting of Grass**

All owners or occupants shall cut the grass on their property before said grass reaches a height that would be considered a nuisance.

5. **Cutting of Grass on Boulevards**

All owners or occupants shall be required to cut the grass on any boulevard which abuts or flanks the property occupied by the owner or occupant.

6. **Pruning or Removal of Trees**

All owners or occupants shall be required to prune or remove trees or shrubs where such trees or shrubs impedes or interferes with the use of public sidewalks, streets, fire hydrants or any other municipal service.

7. **Eradication of Restricted, noxious or Nuisance Weeds**

All owners or occupants shall be required to control and eradicate nuisance, restricted and noxious weeds. Where any vacant property exists, the titled owner of such property shall be responsible for the control and eradication of nuisance, restricted and noxious weeds.

8. Untidy or Unsightly Land or Premises

All owners or occupants shall be required to keep their yard free of any accumulation of building materials, soil or any manner of earth, dirt or stone, implements or vehicles, scrap iron, or any rubbish or refuse that may be considered to cause an unsightly or untidy condition, hazard or nuisance.

9. Pest Control

No person shall permit the proliferation of any animal, bird, reptile, insect or other pest that is likely to spread disease, be destructive or dangerous, or otherwise become a nuisance or annoyance to any person.

10. Right to Inspect

The Enforcement Officer or any person authorized by Council may have right to access into or onto any lands, buildings or premises to inspect for conditions that may contravene or fail to comply with any provisions of this Bylaw.

11. Enforcement

If an Enforcement Officer or person authorized by Council determines that a nuisance exists, or that the inspected property has become untidy or unsightly, or that a danger to public health or safety exists, the authorized person or Enforcement Officer may direct the owner or occupant of the property upon which such a nuisance, untidy or unsightly condition, or dangerous condition exists as follows:

- 11.1 issue a written warning to remedy the problem;
- 11.2 issue a violation tag specifying a voluntary penalty be paid;
- 11.3 issue a violation tag directing that the owner or occupant appear before a Provincial Court Judge;
- 11.4 issue an order under Section 545 or 546 of the *Municipal Government Act*, to remedy the nuisance or unsightly condition;
- 11.5 or any combination of the above.

12. Clean Up Order

If an Enforcement Officer considers any property to be unsightly premises, the Enforcement Office may issue a Clean Up Order.

- 12.1 Each order shall be directed to an owner(s) or occupant(s) named in that Order, and
 - 12.1.1 shall describe the premises by name, if any, and the municipal address or legal land description;
 - 12.1.2 shall state the premises contravene the provisions of this Bylaw;

- 12.1.3 shall give reasonable particulars of the extent or the remedy, clean-up, removal, clearing or other action required to be made;
- 12.1.4 shall state the date and time within which the required action is to be completed;
- 12.1.5 shall state that if the required actions are not completed within the time specified that the Village of Edberg may carry out the actions necessary to remedy the contravention and may charge the Owner of the property for costs incurred to remedy the contravention, and if said Owner does not pay the costs, the costs shall be charged against the premises concerned as taxes due and owing in respect of that property, and recovered as such;
- 12.1.6 shall state that a person receiving a written order may request that the Council review the order and such a request must be written including the reasons for requesting a review, dated and signed by the appellant and delivered to the Municipal Administrator within fourteen (14) days after the order is received by the person pursuant to Section 545 of the *Municipal Government Act*.

12.2 A copy of the order shall be served on any owners or occupants of the premises

- 12.2.1 by being delivered personally to the person who is intended to be served, or
- 12.2.2 by being left with a person apparently over the age of eighteen (18) years of age and residing with the owners or occupants of the premises, or if no such person is found at the premises, by posting it on the door of the premises; or
- 12.2.3 by registered mail to the person who is intended to be served to the last known postal address of the person to be served, and service shall be deemed to be effected seventeen (17) days after the date the registered letter was received at the post office to which it was directed, or
- 12.2.4 as directed by the Court

12.3 If the Clean Up Order is not directed to the person or persons or corporation who is shown on the Village's Tax Rolls as being responsible for payment of taxes in respect of the premises, a copy shall also be sent to such person or persons or corporation, by Registered Mail to the address shown on the Village's Tax Rolls.

12.4 The Clean Up Order may require the person to whom it is directed to:

- 12.4.1 Remedy the condition of the property in a manner and to extent directed in the Order;

12.4.2 Remove any material causing or contributing to the unsightliness of the property;

12.4.3 Place in waste receptacles any material causing or contributing to the unsightliness of the property, or;

12.4.4 Do all or any of the matters specified in clauses 1 to 3;

by a date specified in the Order, which shall be at least fourteen (14) days from the date the Order is served on the person to whom it is directed under paragraph 12.

12.5 The Enforcement Officer may extend the time for doing anything which is required to be done by the terms of the Order.

13. Appeal

13.1 Where a Clean Up Order is issued pursuant to Section 12 of this Bylaw, such Clean Up Order may be appealed within fourteen (14) days to Council;

13.2 Where a Clean Up Order is appealed pursuant to subsection (13.1) the Order is stayed pending a final decision on the merits by Council;

13.3 If a person to whom a Clean Up Order is directed wishes to appeal the Order, he or she must submit notice of appeal in writing to the Village CAO within fourteen (14) days of the date of service of the Clean Up Order;

13.4 Each Notice of Appeal shall;

13.4.1 State with reasonable exactness the grounds of appeal;

13.4.2 State the name, address and interest of the appellant in the property; and

13.4.3 Be dated, and signed by the Appellant or on his behalf by his agent and, if signed by an agent, shall state the name and address of the agent.

13.5 The Village CAO shall upon receipt of the Notice of Appeal, set a date for the hearing of the appeal which shall be held within thirty (30) days of the receipt of the Notice of Appeal.

13.6 Council shall consider each appeal, having regard to the circumstances and merits of the case and the applicable provisions of this Bylaw.

13.6.1 Council may confirm, vary, or revoke the Clean Up Order or may substitute its decision in place of the Clean Up Order which was issued.

13.6.2 Council may extend the time within which anything required to be done by the Clean Up Order is to be performed.

13.6.3 Council may direct anything to be done that an Enforcement Officer can direct to be done either in addition or in substitution for the direction in the Order appealed from.

13.7 When hearing an appeal Council:

13.7.1 Shall not be bound by the technical rules of evidence; and

13.7.2 Shall afford to every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.

14. Compliance

14.1 The person to whom a Clean Up Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer or, if the Order is appealed, with the requirements or directions set out in any decision of Council.

14.2 If a person to whom a Clean Up Order is directed under this Bylaw fails to carry out the Order within the time stated in the Order, in the case of an Order that is not appealed, or within the time limited by Council in the case of an Order that is appealed, an Enforcement Officer may exercise a right of access to the unsightly premises and may, with whatever force is necessary, enter the premises against which the Order has been issued and carry out the Order.

14.3 The expenses incurred by the Village in carrying out an Order under this section constitute a debt owing to the Village from the person to whom the Order is directed.

15. Penalties

15.1 If the conditions have not been rectified as order, the offending party who has contravened any provisions of this Bylaw or has not complied with the Bylaw will be served with a violation tag of which a penalty may be issued:

15.1.1 The penalty for an offence ticket of this Bylaw shall be:

First offence a fine of TWO HUNDRED DOLLARS (\$200.00)

Second offence a fine of THREE HUNDRED DOLLARS (\$300.00)

Third and Each Subsequent Offence a fine of FIVE HUNDRED DOLLARS (\$500.00)

16. Duty to Enforce

The Village of Edberg 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.

17. General

17.1 Bylaw 448-2016 is hereby rescinded.

17.2 This Bylaw shall come into force upon receipt of its third and final reading.

Read a first time on this 28th day of September, 2022

Read a second time on this 28th day of September, 2022

Moved unanimously to third reading this 28th day of September, 2022

Read a third time, and passed on this 28th day of September, 2022

In the Village of Edberg

Mayor, Ian Daykin

C.A.O. Courtney Wold