

# BYLAW NO. 874

Being a Bylaw of the Village of Delburne, in the Province of Alberta, 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, in the Village of Delburne pursuant to Section 7 of the Municipal Government Act, 1994, C.M-26.1, as Amended.

WHEREAS the Village of Delburne has the authority pursuant to Section 7(a) of the *Municipal Government Act* to pass Bylaws respecting the safety, health and welfare of people and the protection of people and property;

AND WHEREAS the Village of Delburne has the authority pursuant to Section 7(b) of the *Municipal Government Act* to pass Bylaws respecting people, activities and things in, on or near a public place or place that is open to the public;

AND WHEREAS the Village of Delburne has the authority pursuant to Section 7(c) of the *Municipal Government Act* to pass Bylaws respecting nuisances generally, including unsightly premises;

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

## **I. DEFINITION**

### **1.1 In this Bylaw:**

- a) "Minimum Standards Committee" shall mean those persons appointed by the Municipal Council of the Village of Delburne by resolution from time to time;
- b) "Designated Officer" shall mean the Chief Administrative Officer of the Village of Delburne or his designate;
- c) "Highway" means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, whether publicly or privately owned, any part of which the public is ordinary entitled or permitted to use for the passage or parking of vehicles; and
  - (i) includes:
    - (A) a Sidewalk (including the boulevard portion of the Sidewalk);
    - (B) if a Ditch lies adjacent to or parallel with the roadway, the Ditch, and
    - (C) if a Highway right-of-way is contained between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be,
  - but
  - (ii) does not include a place declared by the Lieutenant Governor in council not to be a Highway;

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## **Bylaw 874 - Property Maintenance Bylaw**

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- d) "Junked Vehicles" means a vehicle that:
  - (i) is either in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition; and
  - (ii) is not located in a building and does not form part of the business enterprise lawfully being operated on that property;
- e) "Manager of Bylaw Enforcement" means the manager of the Village's Bylaw Enforcement Department or a person acting in that position;
- f) "Municipal Council" means the Municipal Council for the Village of Delburne;
- g) "Nuisance" shall mean, in the opinion of the Designated Officer or the Municipal Council of the Village of Delburne, any substantial and unreasonable interference with an occupier's or owner's use and enjoyment of land, which he occupies or owns;
- h) "Owner" shall mean the registered owner, occupier or person responsible for land or unsightly premises within the municipal boundaries of the Village of Delburne;
- i) "Person" includes a corporation and heirs, executors, administrators or other legal representatives of a person;
- j) "Public Lands" means all lands under the ownership or control of Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Alberta or the Village of Delburne;
- k) "Public Works Department" shall mean the Public Works Foreman and staff, as well as contractors completing Public Works tasks for the Village of Delburne;
- l) "Refuse" means all putrescible and non-putrescible solid wastes including broken dishes, tins, glass, rags, cast-off clothing, waste paper, excelsior, cardboard, food containers, grass cuttings, shrubbery and tree prunings, weeds and garden waste, but does not include tree stumps, roots, turf, earth or such waste matter as may accumulate as a result of building operations;
- m) "Sidewalk" means that part of a Highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a Highway between the curb line (or the edge of the roadway, where there is no curb line) and the adjacent property line, whether or not paved or improved;
- n) "Unsightly Premises" shall mean any premises being land, buildings, improvements to land or personal property located on land within the Village of Delburne that in the opinion of the Designated Officer or the Municipal Council of the Village of Delburne is unsightly to such an extent as to detrimentally effect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the Unsightly Premises;
- o) "Vehicle" means a device in, on or by which a Person or thing may be transported or drawn on a Highway;
- p) "Village" means the Village of Delburne; and

R.R.



## **Bylaw 874 - Property Maintenance Bylaw**

- q) "Village Bylaw Enforcement Officer" means
    - (i) a Bylaw Enforcement Officer appointed by the Village pursuant to the Municipal Government Act, S.A. 1994, C.M-26.1, as amended, to enforce the Village Bylaws, and/or includes
    - (ii) a member of the Royal Canadian Mounted Police and/or,
    - (iii) an independent contractor who is under contract with the Village to provide bylaw enforcement services, and/or
    - (iv) when authorized, a Special Constable.
  - r) "Village Engineer" means an independent contractor who is under contract with the Village to provide engineering services for the Village.
  - s) "Violation Tag" shall mean a tag or similar document issued by the Village pursuant to the Municipal Government Act.
  - t) "Violation Ticket" shall mean a ticket issued pursuant to Part II of the Provincial Offences Procedures Act and Regulations thereunder.
- 1.2 In this Bylaw, wherever the male gender is specified it shall be interpreted as meaning both male and female as applicable.

## **II. PROHIBITIONS**

- 2.1 The Owner of land shall not cause or allow his land or his use of land to constitute a Nuisance.
- 2.2 The Owner of land shall not cause or allow his land to be an Unsightly Premise.
- 2.3 No Person shall cause, permit or allow refuse, paper, wood, water, glass, metal, appliances or Junked Vehicles or dilapidated buildings to collect, accumulate or be upon lands owned or occupied by him, or under his responsibility, or upon a Highway or Public Lands adjoining lands owned or occupied by him, or under his responsibility, unless such site is designated by the municipality as a sanitary landfill site.
- 2.4 No Person shall cause, permit or allow refuse, paper, wood, water, glass, metal or Junked Vehicles or dilapidated buildings or earth, landfill, broken asphalt, concrete or appliances to accumulate in any public or private open place within the Village unless such site is designated by the municipality as a sanitary landfill site.
- 2.5 No Person shall cause, permit or allow refuse, paper, wood, water, glass or metal to accumulate in any structure attached to any building within the Village except in containers, bins, drawers, shelves and areas provided for temporary storage. No storage shall be allowed in the front yard of any property in a residential area.
- 2.6 It shall be a contravention of this Bylaw and an offence for an Owner of land within a residential area as defined by any Bylaw of the Village to permit, allow or condone any of the following acts:
  - i) The accumulation or storage of any building materials, whether new, used or second-hand, on any lands or premises, where the Owner of

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## **Bylaw 874 - Property Maintenance Bylaw**

the lands or premises is not in possession of a valid building permit referring to such lands or premises;

- ii) The storage, collection or accumulation of any automobile, wreck, in whole or in part thereof, or any motor vehicle or portion of a motor vehicle which is not validly registered and licensed in accordance with the *Motor Vehicle Administration Act*, or which is not capable of motivation under its own power and is not then under active repair by the Owner thereof;
- iii) The storage or accumulation of any goods or merchandise which is offered, or intended to be offered for sale;
- iv) The accumulation of automobile or appliance parts or accessories;
- v) The storage of solid fuels such as wood where the amount of solid fuel so stored is in excess of two (2) winter seasons' supply for consumption on site and is so stored that it may be viewed from an adjacent road right-of-way;
- vi) The use of any property within the residential area as defined by the Land Use Bylaw for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment such as bulldozers, graders, backhauls, payloaders, cranes, tractors, semi-trailers or a combination thereof, or other similar heavy equipment.

### **Sidewalk Maintenance**

- 2.7 Every Owner or occupier or their agents of real property in the Village shall clear their property of bush, trees, or other growth which constitutes a fire or health hazard.
- 2.8 All Owners shall remove and clear away all snow, ice, dirt and other obstructions from the Sidewalks situated on land adjacent to the property owned or occupied by them, or under their responsibility.
- 2.9 The Village may clear Sidewalks on land adjoining the property of non-residents and all other Persons who for 24 hours neglect to clear them, and in case of non-payment of the expenses thereof by the Owner, the Village may add the costs and expenses of clearing snow and ice against the tax roll of the property.
- 2.10 No Person shall remove snow, ice, dirt, debris or other materials from any Sidewalk by causing such material to be placed upon any other portion of a Highway or other public place.
- 2.11 No Person shall place, or permit to be placed, any snow, ice, dirt, debris or any other material removed from private property on a Highway or other public place under the direction, management and control of the Village.
- 2.12 Every occupant, and in the case that there is no occupant, the Owner of every building abutting on or erected within three (3) meters of any Highway or public place shall, whenever snow or ice shall accumulate on the roof or ease of such building to an extent that a safety hazard is created to Persons passing by the building, cause the same to be removed at once, and every Person while removing the snow or ice shall take due and proper care and precautions for the warning and safety of Persons passing by the building.
- 2.13 No Person shall damage any Highway of the Village by striking, picking, cutting

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## **Bylaw 874 - Property Maintenance Bylaw**

the same, whether such Person is engaged in removing snow, ice, dirt or other forms of material from the Highway or not.

- 2.14 The imposition of a fine by reason of a conviction under this Bylaw shall not relieve the guilty Person from any liability to pay the Village the expenses arising from any damage caused by any Person to a Highway nor shall it relieve the guilty Person from paying any expenses incurred pursuant to s. 2.9 of this Bylaw.

### **Highway Names**

- 2.15 Village Council shall be responsible for the assigning of names and/or numbers to Highways within the Village and for the placing of signs therefore. Every Person who erects, removes, defaces or damages any such sign as aforesaid in any way whatsoever, shall be guilty of an offence under this Bylaw.

### **House Numbering**

- 2.16 Village Council shall be responsible for the assigning of numbers to houses and buildings, and it shall be compulsory for the Owner of every house or building within the Village to place such assigned numbers in a conspicuous place forthwith and in such a manner that they shall be clearly visible from the Highway upon which the house or building is situated. In the case of country residential lots, assigned numbers shall be placed on reflective backgrounds or be of reflective materials at least 15cm high, and shall be located within three (3) metres of the Highway upon which the house is situated.

### **Boulevard Maintenance and Damage**

- 2.17 The Owner of the land fronting upon any boulevard shall maintain the said boulevard in accordance with Village standards as established by the Public Works Department of the Village.
- 2.18 It shall be unlawful and contrary to the provisions of this Bylaw for any Person within the Village to damage:
- a) any boulevard or hedge adjacent to any Highway; or
  - b) anything erected or maintained adjacent to a Highway for the purpose of lighting the Highway; and every Person causing such damage shall be liable for the costs of repairing such damage in addition to any penalty assessed under this Bylaw.

### **Earth Removal**

- 2.20 No Person shall take up or dig or carry away any of the earth, sand or gravel in or from any Highway, Sidewalk, alley, lane or square within the Village or from any real property owned by the Village within the Village, without the written permission of the Village.
- 2.21 No Person shall remove any soil from any vacant lands within the Village, except where a building permit has been granted for the said land, without first having obtained a valid permit from the Designated Officer of the Village and having paid therefore such price as is demanded by the Owner of such vacant lands.

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## **Bylaw 874 - Property Maintenance Bylaw**

### **Defacing Property**

- 2.22 Every Person who in any way removes, injures, damages, defaces or disfigures any public or private building, wall, fence, hedge, railing, sign, monument, statue, light standard or telephone pole, in whole or in part owned or maintained by the Village, by cutting, breaking, painting, or daubing with paint or other substances, or bill posting thereon, shall have contravened the provisions of this Bylaw, and shall be liable for the costs of repairing such damage in addition to any penalties assessed under the provisions of this Bylaw.

### **Noises**

- 2.23 Every Person who makes or causes noises or sounds in or on a Highway or elsewhere in the Village which disturbs or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of Persons in the vicinity, shall upon warning from any *Village Bylaw Enforcement Officer* cease making or causing such noises forthwith, or shall be deemed to have contravened the provisions of this Bylaw.
- 2.24 Construction equipment shall not be operated between the hours of eleven o'clock at night and seven o'clock in the morning (11:00 p.m. to 7:00 a.m.) except with the permission of the Designated Officer or the Public Works Foreman.
- 2.25 No Person shall shout or use a megaphone or other noise making devices in, or at, or on the streets or other public places of the Village without having first obtained a permit from the Designated Officer.

### **Air Pollution**

- 2.26 No person being the Owner shall within the Village commit any act or condition of air pollution or discharge or allow the discharge into the atmosphere of any dust, soot, fumes, noxious gases, cinders, smoke, sparks, ash or other solid or liquid particles, or effluvia, or any other products of combustion to any extent or degree, that may be or are liable to become injurious to the health, comfort, property or welfare of any one or more of the residents or inhabitants of the Village.

## **III. ENFORCEMENT**

- 3.1 A Designated Officer may, for the purposes of ensuring that the provisions of this Bylaw are being complied with, enter in or upon an Owner's land or structure, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection, enforcement or other action required or authorized by this Bylaw or an enactment.
- 3.2 Any Owner who contravenes this Bylaw may be served with an order by a Designated Officer to remedy the contravention in any manner deemed necessary in the circumstances by the Designated Officer pursuant to Section 545 of the *Municipal Government Act*.
- 3.3 The order issued by the Designated Officer under Section 3.2 may:
- (a) direct an Owner to stop doing something, or to change the way in which the Owner is doing it;
  - (b) direct an Owner to take any action or measures necessary to remedy the contravention of this Bylaw, including the removal or demolition of

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## **Bylaw 874 - Property Maintenance Bylaw**

- a structure that has been erected or placed in contravention of this Bylaw, and, if necessary, to prevent a re-occurrence of the contravention;
- (c) state a time within which the Owner must comply with the directions;
- (d) state that if the Owner does not comply with the directions within a specified time, the Village will take the action or measure at the expense of the Owner, said expense being recoverable in accordance with Section 3.11 of this Bylaw and the provisions of the *Municipal Government Act*.
- 3.4 If, in the opinion of the Designated Officer, any land within the Village is an Unsightly Premise, the Designated Officer may by written order:
- (a) require the Owner of the Unsightly Premises to remove or demolish the Unsightly Premises;
- (b) require the Owner of the Unsightly Premises to improve the appearance of the property in the manner specified, or if the property is a structure, to remove or demolish the structure and level the site.
- 3.5 The order issued under Section 3.4 may:
- (a) state a time within which the Owner must comply with the order;
- (b) state that if the Owner does not comply with the order within a specified time, the municipality will take the action or measure at the expense of the Owner.
- 3.6 The Municipal Council of the Village hereby delegates its duty to review and confirm, vary, substitute or cancel written orders issued under this article to the Minimum Standards Committee.
- 3.7 An Owner who receives a written order under this article may request the Minimum Standards Committee to review the order by written notice within 14 days of the date the order is received.
- 3.8 An Owner affected by the decision of the Minimum Standards Committee under Section 3.6 may appeal to the Court of Queen's Bench within 30 days of the date the decision is served on the Owner:
- (a) if the procedure required to be followed by the *Municipal Government Act* is not followed, or
- (b) the decision is blatantly unreasonable.
- 3.9 The application for appeal will state the reasons for the appeal.
- 3.10 The court may:
- (a) confirm the decision; or
- (b) declare the decision invalid and send the matter back to the Minimum Standards Committee with directions.
- 3.11 The expenses and costs of any action or measures taken by the Village under this Bylaw are an amount owing to the municipality by the Owner who contravened the Bylaw.

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## **Bylaw 874 - Property Maintenance Bylaw**

- 3.12 If the Village sells all or a part of a structure that has been removed under this Bylaw, the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the Owner entitled to them.
- 3.13 The expenses and costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt or, for those sections of the Bylaw that are authorized to be collected as a tax under s. 553 of the *Municipal Government Act*, added to the tax roll of the land which is the subject of the enforcement proceedings under this Bylaw.

### **IV. OFFENCES AND PENALTIES**

- 4.1 Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty in the amount of:
  - 4.1.1 a minimum of One Hundred Dollars (\$100.00) for a first Offence; and
  - 4.1.2 a minimum of Five Hundred Dollars (\$500.00) for a second or subsequent Offence, if:
    - a. the Offence is a contravention of the same provision of the Bylaw which was contravened resulting in the first, or prior, Offence; and
    - b. the Offence is committed within one (1) year of committing the first, or prior, Offence.
- 4.2 Under no circumstances shall any Person contravening any provision of this Bylaw be subject to a penalty of imprisonment.

### **V. VIOLATION TAGS**

- 5.1 A Village Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person, who the Village Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 5.2 A Violation Tag may be issued to such Person either personally or by mailing a copy to such Person at his last known post office address.
- 5.3 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
  - (a) the name of the Owner of land;
  - (b) a description of the land;
  - (c) the offence;
  - (d) the appropriate penalty for the offence as specified in this Bylaw;
  - (e) that the penalty shall be paid within 30 days of the issuance of the Violation Tag;
  - (f) any other information as may be required by the Chief Administrative Officer.

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## **Bylaw 874 - Property Maintenance Bylaw**

- 5.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Village Bylaw Enforcement Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
- 5.5 Where a Violation Tag is issued pursuant to Section 5.1 or 5.4 of this Bylaw, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village Office the penalty specified on the Violation Tag.

### **VI. VIOLATION TICKET**

- 6.1 In those cases where a Violation Tag has been issued and if the penalty specified on a Violation Tag has not been paid within the prescribed time, then a Village Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, C.P-21.5, as amended.
- 6.2 Notwithstanding Section 6.1 of this Bylaw, a Village Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any Person who the Village Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

### **VII. SEVERABILITY PROVISION**

- 7.1 Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.

### **VIII. EFFECTIVE DATE**

- 8.1 This Bylaw shall come into effect on the date of Third and Final Reading.
- 8.2 Upon passing, this Bylaw shall rescind Bylaw 697 - Bylaw to Control Noise, dated June 6, 1988.
- 8.3 Upon passing, this Bylaw shall rescind Bylaw 715 - Bylaw to Regulate Untidy Premises - Nuisance Bylaw, dated July 4, 1989.

READ a first time this 11<sup>th</sup> day of August, 1988 by Mayor Reckseidler.

READ a second time this 22<sup>nd</sup> day of September, 1988 by Councillor Long.

READ a third time and finally passed this 23<sup>rd</sup> day February, 1999 by Councillor Cairns.

### **VILLAGE OF DELBURNE**



PER: Raymond Reckseidler  
Raymond Reckseidler, Mayor

PER: [Signature]  
Larry Baran, Municipal Administrator