

BYLAW NO. 1156/2019

Nuisance Bylaw (Property Maintenance)

Being a Bylaw of the Village of Delburne, in the Province of Alberta, for the preventing and compelling of nuisances generally and regulating untidy and unsightly premises and eliminating conditions on properties that are dangerous to the public safety and to rescind Bylaw No. 874.

WHEREAS under the authority of the *Municipal Government Act*, being Chapter M-26 of the Revised Statutes of Alberta and amendments thereto, the Council of a municipality may pass bylaws for preventing of nuisances generally, and regulating untidy and unsightly private and public premises, and eliminating conditions on properties that are dangerous to the public safety;

AND 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 Council deems it expedient to pass a bylaw pursuant to Chapter M-26 of the *Municipal Government Act*, Revised Statutes of Alberta and amendments thereto;

NOW THEREFORE, the Municipal Council of the Village of Delburne, in the Province of Alberta, duly assembled and under the powers conferred upon it by the *Municipal Government Act*, being Chapter M-26 of the Statutes of Alberta, 2000, and amendments thereto, enacts as follows:

1. SECTION 1 – SHORT TITLE

This Bylaw may be cited as the Village of Delburne "Nuisance Bylaw".

2. SECTION 2 – DEFINITIONS

1. "Boulevard" means that portion of a street which lies between the roadway and the front of the property line of the land abutting said street.
2. "Bylaw Enforcement Officer" means a person authorized by Council to carry out the provisions of the bylaw or the Chief Administrative Officer of the Village of Delburne, a member of the Royal Canadian Mounted Police or a member of Red Deer County Patrol.
3. "Council" means the Council of the Village of Delburne.
4. "Dilapidated" means in a state of disrepair or ruin as a result of age or neglect.
5. "Garbage" shall mean discarded animals or vegetable matter.
6. "Litter" means any solid or liquid material or product, combination of solid or liquid materials, or liquid materials of products, including but not limited to any rubbish, refuse, garbage, paper, packages, containers, bottles, cans, manure, metal, human or animal excrement, or the whole or part of any article, raw or processed material, or a dismantled or inoperative motor vehicle or other machinery.
7. "Chief Administrative Officer" means a person appointed under the *Municipal Government Act* by the Village of Delburne Council.
8. "Nuisance" shall mean a thing or condition which may cause danger to either a



limited number of persons, or public generally, or because of its attraction to children or other persons who may be likely not recognize its dangerous quality; or, an act in relation to land which by its unnecessary repletion causes irritation and annoyance or both to reasonable neighbors; or both.

9. "Occupant" means any person occupying any property, whether he is the owner or lessee of such property or whether such persons resides thereon or conducts a business thereon.
10. "Owner" means a person having title to, or legal possession of any property.
11. "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.
12. "Public Works Department" shall mean the Public Works Foreman and staff, as well as contractors completing Public Works tasks for the Village of Delburne.
13. "Rubbish" means and includes any paper product, fabric, wood, plastic, glass, metal, or any matter, substance or thing, which has been or appears to have been discarded, abandoned, or in any way disposed of.
14. "Village" means the Village of Delburne.
15. "Untidy" or "Unsightly" means any property or part of a property on which there is litter or rubbish and which causes the property or any part of it to look untidy or unsightly.
16. "Violation Tag" shall mean a tag or similar document issued by the Village pursuant to the *Municipal Government Act*.

3. SECTION 3 – REGULATIONS

- 3.1 No person being the owner, agent, lessee, or occupier of any lot, development, or yard within the Village shall permit or suffer to permit the lot, development, or yard to:
 1. be or remain untidy or unsightly;
 2. be or remain a nuisance;
 3. be or remain infested with crabgrass, dandelions or noxious weeds;
 4. be or remain littered with rubbish or litter
- 3.2 No owner, lessee, tenant, or agent of the owner of any land or premises within the Village shall permit any building, structure, excavation, drain or ditch, watercourse, pond, surface water, refuse or other matter or thing upon private land, street or road or in or about any building to be or to remain a nuisance or danger to the public safety or health.
- 3.3 Every person who is an owner, lessee, tenant, or agent of the owner of land or premises shall eradicate dandelions and noxious weeds and plants from the property occupied by him and from the boulevard which abuts or flanks a property occupied by him.
- 3.4 Every person who is an owner, lessee, tenant, or agent of the owner of land or premises shall cut the grass or other vegetation on the property which he occupies on any boulevard which abuts or flanks a property occupied by him and on any lane or alley which abuts or flanks a property occupied by him to prevent it from growing to a height or more than six (6) inches.
- 3.5 Every person who is an owner, lessee, tenant, or agent of the owner of land or

premises shall remove from the property occupied by him any dead grass, brush or rubbish which may be untied, unsightly or be a fire hazard or which may harbor vermin or pests.

- 3.6 No Person who shall place, deposit, throw, or cause to be placed, deposited or thrown, any litter upon any street, land, sidewalk, parking lot, park, boulevard or other public place or water course, or on property not his own, except in a receptacle provided for such purpose.
- 3.7 No Person shall cause, permit or allow refuse, paper, wood, water, glass, metal, appliances, 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.
- 3.8 No Person shall cause, permit or allow refuse, paper, wood, water, glass, metal, 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 a site is designated by the municipality as a sanitary landfill site.
- 3.9 A Person who has placed, deposited, or thrown or caused to be placed or thrown any litter, rubbish, material or other thing upon any street, land, sidewalk, parking place, park, or other public place or water course or on any property not his own shall forthwith remove it upon being directed by the property owner, agent, or lessee, or Bylaw Enforcement Officer.
- 3.10 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 property.
- 3.11 No person shall post or exhibit, or cause, permit or allow to be posted or exhibited on any wall or fence or elsewhere on or adjacent to a highway or public place, any placard, playbill, poster, writing or picture, without the prior written permission of the Chief Administrative Officer.
- 3.12 The Bylaw Enforcement Officer is hereby authorized to remove and destroy any such placard, playbill, poster, writing or picture erected or maintained without permission being granted in section 3.12 of this bylaw.
- 3.13 No person shall place, pile or store any material or equipment on Village property without first applying for and obtaining a permit for such purpose from the Village.
 - a) The Chief Administrative Officer is hereby authorized to make provisions, conditions, and regulations for the granting of such permits and to set the charges and terms in respect thereof.
- 3.14 Any person placing or causing to be placed, any dirt, gravel, concrete, equipment or any such obstruction on Village property without a permit shall remove or cause the removal thereof within twenty-four (24) hours.
 - a) If the person fails to remove such matter within twenty-four (24) hours after being notified to do so, the Chief Administrative Officer may authorize the removal of the obstruction and completion of any necessary repairs, and the expense of doing so shall be recoverable from such persons as a debt owed to the Village of Delburne.
- 3.15 Every property owner, agent, lessee, or occupier of a property shall ensure that



branches, roots, stems, or trunks of trees or shrubs, whether on private property or otherwise shall not in any way interfere with or endanger the lines, poles, conduits, pipes, sewer or other works of a utility service, or owned by the Village of Delburne. The Bylaw Enforcement Officer may direct the owner, agent, lessee, or occupier of the property on which such tree or shrub stands, to remove or prune the tree or shrub, or take such other steps as they may deem necessary to alleviate the interference with or danger to such works.

- 3.16 Trees whose branches overhang a road, lane or alley shall be pruned to a height of twelve (12) feet over the roadway and shall not encroach over the property line so as to allow unobstructed flow of traffic through these thoroughfares.
- 3.17 Trees whose branches overhang a sidewalk shall be pruned to a height of seven (7) feet over any sidewalk so as to encroach onto or over the sidewalk or obstruct or prevent the flow of pedestrian traffic.
- 3.18 The Bylaw Enforcement Officer may direct the owner, agent of the owner, lessee, or occupier of any property by written Notice to take such measures as is deemed reasonably necessary for the prevention or abatement of a nuisance or for the remedying of any untidy or unsightly conditions or any dangerous condition on any premises, or complying with other sections within this bylaw, without restricting the generality of the foregoing:
- a) Require the owner, agent, lessee, or occupier to remedy within seven (7) days in such a manner as the Bylaw Enforcement Officer may direct any condition on the lot, development or yard that constitutes a nuisance or unsightly or untidy condition.
 - b) Direct the owner, agent, lessee, or occupier to remove within seven (7) days any ashes, garbage, refuse, or rubbish or other materials causing or contributing to the unsightly or untidy condition.
 - c) Require the owner, agent, lessee, or occupier within a reasonable amount of time to construct a wall, fence, screen, or other similar structure to prevent the unsightly or untidy premises from being viewed from any highway or any other public places.
- 3.19 Notwithstanding any other section of this bylaw, if, after receiving a Notice, any person fails to comply with the provisions of this bylaw or fails to remove any litter, rubbish, or materials or any other nuisance deposited by him or remedy a condition dangerous to the public safety they shall be deemed guilty of an offense under this bylaw.
- 3.20 Council may, by resolution, declare that if the owner, agent, lessee, or occupier concerned fails, neglects, or refuses to remedy the condition within the time specified on the terms set out therein, Council may direct Village forces, or its contractors, to remedy the conditions. The cost of the work performed and other related costs may be charged to the owner.
- 3.21 In default of payment by the owner, Council may direct the said costs to be recovered by charging the same against the land concerned as taxes due and owing in respect of that land.

4. SECTION 4 – AUTHORITY TO ENTER AND ENFORCE



- 4.1 The Bylaw Enforcement Officer is hereby authorized to enter lands within the Village of Delburne for the inspection of conditions that may constitute a nuisance or a condition dangerous to public safety or health or otherwise contravenes or fails to comply with the provisions of this Bylaw.



- 4.2 The Bylaw Enforcement Officer may, after having inspected a property or premises within the Village and finding it in contravention of this bylaw, declare that the property or premises within the Village is a contravention of this Bylaw.
- 4.3 The Bylaw Enforcement Officer may direct the owner, agent, lessee, or occupier of any property to take such measures as the Bylaw Enforcement Officer is his discretion deems necessary for the prevention or abatement of a nuisance, a condition dangerous to the public safety or for the remedying of any untidy or unsightly condition on any premises or to ensure that the provisions of this Bylaw are complied with, and may:
- a) Issue a warning notice, as prescribed in Schedule "A" attached to and part of this Bylaw, by regular mail or posting the warning notice to the front and rear doors of the property, or by handing the notice to the owner, agent, lessee, or occupier of the land or premises in question advising them of the condition and directing that the condition be rectified within seven (7) days.
 - b) Upon non-compliance to a warning notice referred to in this bylaw issue an offense ticket.
 - c) Upon non-compliance to a warning notice referred to in this bylaw issue a summons.
- 4.4 Should any property owner, agent, lessee, or occupier fail, neglect or refuse to remedy the conditions within the time indicated on the Notice, the Village of Delburne may, by Council resolution, cause the work to be performed as is deemed necessary to remedy the condition and charge the cost of such work to owner and in default of payment charge the cost against the land concerned as taxes due and owing in respect of the land.
- 4.5 Any person who enters the property to remedy a condition as described by the Bylaw Enforcement Officer, shall be deemed to have the authorization of the Council of the Village of Delburne and shall not incur any liability therefore.

5. SECTION 5 – PENALTIES

- 5.1 Any person who breaches a provision of this Bylaw shall be guilty of an offense and shall be liable upon summary conviction to a fine of not less than \$100.00 and not more than \$1500.00. Notwithstanding the foregoing, a person charged with an offense under this Bylaw may make a voluntary payment at the Village Office at any time up to ten (10) days after the date the offense ticket is issued and in such case prosecution for the offense will not proceed.
- 5.2 The voluntary payment for offenses under this Bylaw are set out in Schedule "B" attached to and part of this Bylaw.
- 5.3 Where the Village is required to clean up a property, a per hour rate for equipment and operator will be charged according to our "Fees and Charges" Bylaw.
- 5.4 Where the alleged offender has made payment under this Bylaw and is prosecuted under a summons issued for the offense in respect of which such payment has been made, such payment will be refunded.
- 5.5 If the alleged offender does not pay the penalty amount, then such persons may be required to appear in Provincial Court and if found guilty of the offense pay a fine set out in Section 5 of this Bylaw.

6. SECTION 6 – APPEAL PROVISIONS

- 6.1 A person who considers themselves aggrieved by a Notice given pursuant to this Bylaw may appeal the direction to Council.
- 6.2 An appeal under this section shall be delivered in person or sent by registered mail to the Chief Administrative Officer within seven (7) days of the date on which direction was served on the owner, agent, lessee, or occupier.
- 6.3 Council shall consider the appeal at its next regular meeting after the appeal has been received.
- 6.4 After considering the appeal, Council may confirm the Notice or if it is satisfied that the Notice is unreasonable, unjust or in any manner contrary to the intent and meaning of this Bylaw, set aside, vary or modify the Notice. Notice of the decision shall be served upon the person making the appeal, or their agent, by registered mail, or by hand delivery.
- 6.5 The Court of Queen's Bench may confirm the decision of the Council or may set aside, vary or modify the Notice.
- 6.6 During the appeal process the direction required will be held in abeyance until final determination by Council and/or the Court of Queen's Bench.


7. SECTION 7 – SEVERANCE

- 7.1 It is the intention of the Council, that each separate provision of the Bylaw be deemed independent of all other provisions, and if any provision of this Bylaw be declared invalid by a court of competent jurisdiction, all other provision shall remain valid and enforceable.
- 7.2 This Bylaw shall come into effect on the date of the third and final reading.
- 7.3 Bylaw 874 is hereby repealed.

FIRST READING of Bylaw No. 1156/2019 granted this 22nd day of October, 2019.

SECOND READING of Bylaw No. 1156/2019 granted this 26 day of November, 2019.

THIRD AND FINAL READING of Bylaw No. 1156/2019 granted this 26 day of November, 2019.


Bill Chandler, Mayor


Karen Fegan, CAO

SCHEDULE "A"

NOTICE

Date: _____

TO: _____
(property owner, agent, lessee or occupier)



This Notice is issued pursuant to the provisions of the Village of Delburne Nuisance Bylaw 1156/2019 .

The property at _____, Delburne, Alberta
was inspected on _____ and the following
conditions were found:

You are hereby directed to remedy the above conditions on or
before _____, _____ by taking the following actions:

Failure to comply may result in the Village of Delburne taking the necessary action so as to ensure compliance. Failure to comply will result in penalties being assessed against the property. All costs associated with any clean-up done by the Village will be billed and failure to pay the related account or penalties will result in the account being put toward the taxes of the property for payment.

Village of Delburne

SCHEDULE "B"

Penalties

Section 3.2	Permitting a nuisance or danger to the public	\$50.00
Section 3.3	Failing to eradicate noxious weeds from property	\$25.00
Section 3.4	Allowing grass to exceed permitted height	\$25.00
Section 3.5	Failing to remove dead vegetation	\$25.00
Section 3.6	Littering in a public place	\$100.00
Section 3.7	Failing to dispose of litter after being directed to	\$100.00
Section 3.8	Permitting construction material to blow off of site	\$100.00
Section 3.14	Failing to remove material from Village property	\$25.00
Section 3.16	Failing to remove branches encroaching over road	\$25.00
Section 3.17	Failing to remove branches over sidewalk	\$25.00
Section 3.19	Failing to comply with a Notice	\$100.00

All costs associated with any clean-up done by the Village will be billed and failure to pay the related account will result in the account being put toward the taxes of the property.

