

VILLAGE OF ELNORA
THE NUISANCE ABATEMENT BYLAW

BYLAW NUMBER 494-0806

A BYLAW OF THE VILLAGE OF ELNORA, IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING, CONTROLLING, AND ABATING NUISANCES AND REMEDYING DANGEROUS AND UNSLIGHTLY PREMISES:

GIVEN THAT Council considers it expedient and desirable to regulate the state of maintenance of property and to regulate, control and abate Nuisances, Dangerous and Unsightly premises within the Village of Elnora;

The Council of the Village of Elnora in open meeting assembled enacts as follows:

CITATION

1. This Bylaw may be cited as the “Nuisance Abatement Bylaw”.

DEFINITIONS

2. In this bylaw,
 - (a) “ADJACENT” means land that is contiguous to the land that is subject of a nuisance complaint and includes land, or a portion of land that would be contiguous, if not for a public road, railway, river or stream.
 - (b) “ABANDONED EQUIPMENT” means equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition, and includes any household appliance stored outside of a residence or other building regardless of whether or not in an inoperative condition.
 - (c) “ABANDONED VEHICLE” means the whole or any part of any motor vehicle or farm implement that:
 - (i) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition, and is not located in a building or located on the property such that it can be concealed from view; or
 - (ii) has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year.

- (d) “BYLAW ENFORCEMENT OFFICER” means an employee or independent contractor appointed by the Village to enforce the provision of the Village Bylaws, and includes a member of the Royal Canadian Mounted Police, and when authorized a Special Constable. A Bylaw Enforcement Officer is a Designated Officer.
- (e) “CHIEF ADMINISTRATIVE OFFICER” means a Municipal official, employed by the Village of Elnora in the position of Chief Administrative Officer or, in his/her absence, the person appointed as Acting Chief Administrative Officer.
- (f) “COUNCIL” means the Municipal Council of the Village of Elnora, in the Province of Alberta.
- (g) “DESIGNATED OFFICER” means a person appointed to a position.
- (h) “NUISANCE” includes any use of or activity upon any property which is offensive to any person acting reasonably, or has or may be reasonably expected to have a detrimental impact upon any person or other property in the neighbourhood or is dangerous or an imminent danger to public health or safety, or materially depreciates the value of other land or improvements on adjacent land.
- (i) “OCCUPANT” means any person other than the registered Owner who is in possession of the Property, including, a lessee, licensee, tenant or agent of the Owner.
- (j) “ORDER” means an order as defined by the Municipal Government Act.
- (k) “OWNER” means:
 - (i) in respect of unpatented land, the Crown,
 - (ii) in respect of other land, the person who is registered under the Land Titles Act as the owner of the fee simple estate in the land, and
 - (iii) in respect of any property other than land, the person in lawful possession of it.

- (l) “PROPERTY” includes any lands, buildings, structures or premises, or any personal property located thereupon, within the municipal boundaries of the Village of Elnora.
- (m) “PUBLIC LANDS” includes all lands under the ownership and control of Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of Alberta, or the Village.
- (n) “REFUSE” includes all solid and liquid wastes, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, chemicals, hazardous materials, abandoned vehicles, abandoned equipment, tires, manure sewage, animal carcasses, or any other form of waste or litter.
- (o) “REASONABLE STATE OF REPAIR” means the condition of being:
 - (i) structurally sound;
 - (ii) free from damage;
 - (iii) free from rot or other deterioration; and
 - (iv) safe for its intended use.
- (p) “UNSIGHTLY PREMISES” means any Property, whether land, improvements to lands or buildings, personal property, or any other combination of the above, located on land within the Village that is unsightly to such an extent as to detrimentally affect the repose, amenities, use, value or enjoyment of the surrounding lands in reasonable proximity to the unsightly premises, or is otherwise detrimental to the surrounding area or in an unsightly condition.
- (q) “VILLAGE” means the Village Of Elnora, a municipal corporation of the Province of Alberta and includes the area contained within the boundaries of the Village.
- (r) “VIOLATION TAG” means a written notice, in a form approved by the Chief Administrative Office, issued by a Bylaw Enforcement Officer, to advise a person that a violation of the Bylaw has occurred and that, by payment of a specified amount to the Office within a set time period, that person will avoid prosecution for the offence.

- (s) “VIOLATION TICKET” means a ticket issued pursuant to the Provincial Offenses Procedure Act.

PROHIBITION AND EXEMPTIONS

3. An Owner or Occupant of Property shall not cause or allow that Property or his use of that Property to constitute a Nuisance, a Danger to public safety or an Unsightly Premise.
4. No Person shall cause, permit or allow Refuse to collect, accumulate or be stored upon Property owned or occupied by him, or under his responsibility, or upon Public Lands, adjoining Property owned or occupied by him or under his responsibility, unless such a site is designated by the Village as a sanitary land fill site.
5. No Person shall cause, permit or allow Refuse 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 pickup and disposal at a sanitary land fill, recycling centre or other waste management facility.
6. Conditions constituting a Nuisance, Danger and Unsightly Premise may include:
 - (a) the storage, stockpile or accumulation and the failure to dispose of any Refuse and discarded or dilapidated furniture or household appliances, scrap metals, scrap lumber, tires, motor vehicle parts and other like objects in a wrecked, discarded, or abandoned condition;
 - (b) uncut grass or the presence of weeds, which in the opinion of the Bylaw Enforcement Officer, are excessive or which demonstrate neglect by the Owner;
 - (c) the growth of trees or shrubs in such a manner that they interfere with or endanger visibility to street signage or sidewalk or roadway clearance;
 - (d) the failure to remove dead or hazardous trees or vegetation which is dangerous to the public safety;
 - (e) the generation of excessive dust, smoke, steam or other noxious emissions and permitting such dust, smoke, steam or noxious emission to escape from the property;
 - (f) the presence of trees, shrubs, weeds or other vegetation which as a result its location on the Property has caused, or is causing damage to adjacent Property, including Public Lands;

- (g) allowing a hole, excavation or accumulation of material that may be dangerous to public safety or health, to exist on property;
- (h) allowing conditions that result in an infestation of harmful rodents, vermin or insects on property;
- (i) the posting or exhibiting of any poster, sign, billboard, placard, writing, drawing or painting, or any signs or messages or pictures upon the property, where the same becomes in a dilapidated and unsightly condition.
- (j) the failure to dispose of Refuse or other waste products accumulating in temporary storage containers upon the Property;
- (k) the lack of repair or maintenance of buildings, structures or Property, including:
 - (i) the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements resulting in a situation hazardous to personal or public safety;
 - (ii) broken or missing windows, siding, shingles, shutters, eaves or other building material; or
 - (iii) fading, chipping or peeling of painted areas of buildings, structures or improvements on Property over greater than 25% of the entire structure.
- (l) the presence of excavations, structures, materials or any other hazard or condition which poses a danger to public safety.

SNOW ON SIDEWALKS

7. An Owner shall ensure the removal from any improved public sidewalk located adjacent to the Property, including private driveway crossings, all snow and ice deposited, whether from natural or unnatural means, within 24 hours of deposit.
8. For the purpose of Section 7, snow and ice will be considered removed when the sidewalk is cleaned for the entire width of the sidewalk to the sidewalk surface as completely as reasonably possible.
9. For the purpose of Section 7, in the case of a sidewalk being below grade resulting in repeated coverage by ice or water through drainage of melted snow or rain, the sidewalk must be cleaned as completely as reasonably

possible and a non-slip, non-corrosive material such as sand or similar material must be scattered on the surface of the sidewalk as frequently as required to maximize traction for pedestrians.

10. For the purpose of Section 7, where an Owner reasonably anticipates being absent, the Owner must make arrangements to ensure the sidewalks are maintained in accordance with this Bylaw.

CONSTRUCTION SITES

11. An Owner shall ensure that building material on a property is removed or contained and secured in such a manner that prevents such material from being blown off or scattered from the property.

MAINTENANCE STANDARDS IN URBAN AREAS

12. All buildings, structures and improvements to Property in Urban Areas be maintained so that;

- (a) the foundations;
- (b) exterior walls;
- (c) roof;
- (d) windows, including frames, shutters and awnings;
- (e) doors, including frames and awnings;
- (f) steps and sidewalks; and
- (g) fences

are kept in a Reasonable State of Repair.

13. All fixtures, improvements, renovations, or additions to any building, structure or improvement on Property:

- (a) exterior stairs;
- (b) porches;
- (c) decks;
- (d) patios;
- (e) landings;
- (f) balconies; or
- (g) other similar structures

shall be maintained in a Reasonable State of Repair.

14. The provisions of this Bylaw shall not be interpreted to prevent bona fide and permitted commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other related activities from

being carried out on, or in relation to a Property.

15. The Owner of a Property that carries on, or permits the carrying on of any activities referred to in Section 14, of this Bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness of the Property.
16. Whether or not an Owner has taken “all reasonable steps” to minimize the the duration and visual impact of any resulting untidiness or unsightliness of a Property, as referred to in Section 15, of this Bylaw, is a question of fact to be determined by the Court of Competent Jurisdiction hearing a prosecution, or the person or body hearing an Appeal, pursuant to the provisions of this Bylaw.

OFFENCE PROVISIONS

17. A Bylaw Enforcement Officer may, for the purpose of ensuring that the provisions of this Bylaw are being complied with, may enter in or upon any Property, to carry out an inspection, for enforcement purposes, or other action as may be required.
18. When exercising his authority to enter onto Property for inspection or enforcement under Section 17, a Bylaw Enforcement Officer shall provide the Owner or Occupant of the Property with reasonable notice.
19. The Bylaw Enforcement Officer must display or produce, on request, identification showing that the person is authorized to make the entry.
20. In an emergency or in extraordinary circumstances, the Bylaw Enforcement Officer need not give reasonable notice or enter at a reasonable hour and may do the things in Section 17, without the consent of the owner or occupant.
21. Every Owner or Occupant who contravenes this Bylaw may be issued an Order by a Bylaw Enforcement Officer to remedy the contravention in any manner deemed necessary in the circumstances.
22. The Order issued by a Bylaw Enforcement Officer under Section 21 may, in the case of a Nuisance:
 - (a) direct an Owner to stop doing something, or change the way in which the Owner is doing that thing;
 - (b) direct an Owner to take any action or measure necessary to remedy contravention of this Bylaw, including the removal, demolition of a building, structure or improvement that has been erected or

placed in contravention of this Bylaw and, if necessary, to prevent the recurrence of the contravention;

- (c) state a time within which the Owner or Occupant must comply with directions;
- (d) state that if the Owner or Occupant does not comply with the directions within the specified time, the Village may take action for measures at the expense of the Owner or Occupant, the said expense being recovered in accordance with the provisions of this Bylaw, and;
- (e) shall notify the Owner of the right to apply by written notice for a review of the Order to the Chief Administrative Officer, and the required fee for such an application, as set out in Schedule “B” attached, Fees and Charges of this Bylaw, as may be amended from time to time by ordinary resolution of Council duly assembled.

23. If, any Property within the Village is an Unsightly Premise, or any building, structure, improvement, personal property, excavation or hole is a danger to public safety, the Bylaw Enforcement Officer may by written Order;

- (a) require the Owner or Occupant of the Unsightly Premises to remove or demolish the Unsightly Premises;
- (b) require the Owner or Occupant of the Unsightly Premises to improve the appearance of the Property in the manner specified, or if the Property is a building, structure or improvement, to remove or demolish that building structure or improvement and level the site;
- (c) require the Owner or Occupant of the Property to eliminate the danger to public safety in the manner specified, or to remove or demolish the building, structure or improvement and level the site;
- (d) require the Owner or Occupant of the Property that contains an excavation or hole to eliminate the danger to public safety in the manner specified, or to fill in the excavation of hole and level the site;
- (e) state a time within which the Owner or Occupant must comply with the Order;

- (f) state that if the Owner or Occupant does not comply with the Order within the time specified, the Village may take action or measures at the expense of the Owner or Occupant, the said expenses being recoverable in accordance with the provisions of this Bylaw, and;
 - (g) shall notify the Owner or Occupant of the right to apply by written notice for a review of the Order, and the required fee for such application, as set out in Schedule “B”, attached.
- 24. An Owner or Occupant who receives a written Order under this part may request a review of the Order by giving a written request to the Chief Administrative Officer within fourteen (14) days of the day on which the Order is received.
- 25. An Owner or Occupant or other person affected by the decision under Section 24 may appeal to the Court of competent jurisdiction, within the time period set out if:
 - (a) the procedure required to be followed by this Bylaw was not followed; or
 - (b) the decision was patently unreasonable
- 26. The application for appeal must state the reasons for the appeal.
- 27. The Court may:
 - (a) confirm the decision; or
 - (b) declare the decision invalid and send the matter back to Council with directions
- 28. The expenses and costs of any action or measures taken by the Village under this Bylaw are an amount owing to the Village by the Owner, Occupant or any other Person in contravention of the Bylaw.
- 29. If the Village sells all or part of a building, structure or improvement 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 or Occupant if entitled to them.
- 30. The expenses 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 of the Property that is the subject of the enforcement proceedings under the Bylaw.
- 31. The Village may register a caveat under the Land Titles Act in respect of an Order

issued under this Bylaw against the Certificate of Title for the Property that is the subject of the Order.

32. If the Village registers a caveat under Section 31 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 referred in the Order.
33. An Order under this Bylaw may be served on an Owner or Occupant, and is deemed to have been served on the Owner or Occupant, when the Order has been:
 - (a) personally delivered to the Owner or Occupant;
 - (b) left for the Owner or Occupant at his residence with a person on the premises who appears to be at least eighteen (18) years of age;
 - (c) sent via registered mail addressed to the last known postal address of the Owner or Occupant; or
 - (d) posted in a conspicuous place on the Property referred to on the Order when the Bylaw Officer has reason to believe:
 - (i) that the Owner or Occupant to whom the Order is addressed is evading service; or
 - (ii) no other means of services available.
34. If an Order is sent via registered mail as referred to in Section 33(c), then it is deemed to be received by the Owner or Occupant five working (5) days after the Order was mailed.

OFFENCES AND FINES

35. Despite whether an Order has been issued under OFFENCE PROVISIONS of this Bylaw, every Person who contravenes any provision of this Bylaw may be found guilty of an offence and be liable, on summary conviction, to pay a penalty as set out in Schedule “B”, attached.

VIOLATION TAGS

36. A Bylaw Enforcement Officer is authorized and empowered to issue a Violation Tag to every Person, who the Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
37. A Violation Tag shall be served upon such a Person personally, or in the case of a corporation, by serving the Violation Tag personally upon the Manager, Secretary or other Executive Officer, or Person apparently in charge of a branch

office, by mailing a copy to such Person by registered mail, or the case of an individual, by leaving it with a Person on the premises who has the appearance of being at least eighteen (18) years of age.

38. The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
 - (a) the name of the Owner and/or Occupant of the Property;
 - (b) a description of the Property;
 - (c) the offence;
 - (d) the appropriate penalty for the offence as specified in Schedule “B”;
 - (e) that the penalty shall be paid within twenty one (21) days of the issuance of the Violation Tags; and
 - (f) any other information as may be required by the Chief Administrative Officer.
39. Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by the Bylaw Enforcement Officer, provided however, that no more than one Violation Tag shall be issued for each day that the contravention continues.
40. Where a Violation Tag is issued pursuant to Section 36 or 37 of this Bylaw, the Person to whom a Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Chief Administrative Officer the penalty specified on the Violation Tag.

VIOLATION TICKET

41. In those cases where a Violation Tag has been issued and the penalties specified on the Violation Tag has not been paid within the prescribed time, then a Bylaw Enforcement Officer is authorized and empowered to issue a Violation Ticket.
42. Despite Section 36 of this Bylaw, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to every person whom the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

APPEAL PROCEDURE

43. Every person who received a written Violation Tag under this Bylaw may request Council to review the clean-up order by giving a written request to the Chief

Administrative Officer within fourteen (14) days of the date the clean-up order was sent.

44. After reviewing the clean-up order, Council may confirm, vary, substitute or cancel the order.
45. Appeal of Council's decision may be made by a person affected by the decision of Council to the Court of competent jurisdiction with thirty (30) days of the date the decision is sent to the person if:
 - (a) the procedure required to be followed by this Bylaw is not followed, or
 - (b) the decision is patently unreasonable.
46. The application for the appeal to the Court of competent jurisdiction must state the reason for the appeal.
47. The court of competent jurisdiction may:
 - (a) confirm the decision of Council
 - (b) declare the decision invalid and send the matter back to Council with direction.

GENERAL

48. Schedule "A" and Schedule "B" to this Bylaw may be amended, from time to time, by resolution of Council and any such amendment shall form part of this Bylaw.

SEVERABILITY

49. If any portion of this Bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the Bylaw is deemed valid.

REPEAL

50. Bylaw No.345, February 10th, 1976, as amended, is repealed.

Read a 1st time this ___ day of _____

Read a 2nd time this ___ day of _____

Read a 3rd and final time this ___ day of _____ and finally passed.

Mayor

Administrator

BYLAW NO. 494-0806
(Nuisance Abatement)
SCHEDULE "A"

VILLAGE OF ELNORA
NUISANCE ABATEMENT NOTICE
(VIOLATION TAG)

Dated: _____
To: _____
And To: _____

With respect to those premises located at:

Pursuant to the Nuisance Abatement Bylaw of the Village of Elnora, the above referenced persons as owner, agent, lessee or occupier of land or premises with the Village of Elnora shall remedy the following condition(s) on the above-said land or premises on or before _____:

In the event the above conditions are not remedied within the deadline set out above, the Village may thereafter immediately cause to be done any work necessary to remedy the condition, and the cost will be charged to you and other fines and penalties may result as permitted by the Nuisance Abatement Bylaw.

If you feel yourself aggrieved by this Notice, you may appeal the notice by delivering a written appeal in person or by mail to the Chief Administrative Officer at Box 629, Elnora, Alberta, T0M 0Y0, within 14 days of the date this notice was sent.

Bylaw Officer
Tel: _____

BYLAW NO. 494-0806
(NUISANCE ABATEMENT)
SCHEDULE “B”

FEE SCHEDULE

Every owner/occupant that does not comply with the directions set out by the Nuisance Abatement Bylaw may be subject to a fine of:

- a. \$50.00 plus \$25.00 per hour for employee wages, for the first offence; and
- b. \$100.00 plus \$25.00 per hour for employee wages, for any subsequent offences