

**TOWN OF CLARESHOLM
PROVINCE OF ALBERTA
BYLAW #1534**

A Bylaw of the **Town of Claresholm** to regulate and abate nuisances and unsightly premises and to require timely snow removal within the Town of Claresholm.

WHEREAS, under the authority of the Municipal Government of Alberta, being Chapter M-26 of the Revised Statutes of Alberta, R.S.A. 2000 and amendments thereto, the Council of a municipality may pass bylaws for the preventing of nuisances generally, and regulating untidy and unsightly private and public premises;

AND WHEREAS the Council deems it necessary to provide for an efficient means of regulating and encouraging the abatement of unsightly premises within the Town of Claresholm;

AND WHEREAS the Council deems it necessary to require the timely removal of ice and snow from the sidewalks located within the Town of Claresholm;

AND WHEREAS the Council deems it necessary and appropriate to repeal and replace the existing Unsightly Premises and Snow Removal Bylaw No. 1522;

NOW THEREFORE, THE COUNCIL OF THE TOWN OF CLARESHOLM, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

SECTION 1 TITLE OF BYLAW

- 1.1 This Bylaw may be cited as the “**Unsightly Premises and Snow Removal Bylaw.**”

SECTION 2 DEFINITIONS

- 2.1 In this Bylaw, unless the context otherwise requires:
- a) “**Administration Fee**” means a fee added to actual expenses incurred by the Town for measures taken pursuant to this Bylaw and such fee is equal to the greater of \$25.00 or 15% of actual expenses incurred by the Town;
 - b) “**Animal Material**” means any animal excrement and includes all material accumulated on a premises from pet pens or pet yards, stables, veterinary clinics, animal hospitals, kennels or feed lots;
 - c) “**Ashes**” means the powdery residue accumulated on a premises left after the combustion of any substance and includes any partially burnt wood, charcoal or coal;
 - d) “**Building Material**” means material or debris which may result from the construction, renovation or demolition of any building or other structure and includes, but is not limited to, wood, gypsum board, roofing, vinyl siding, metal, packaging material and containers of building material, gravel, concrete and asphalt and any earth, rocks and vegetation displaced during such construction, renovation or demolition of any building or other structure;
 - e) “**Chief Administrative Officer**” means a municipal official employed by the Town of Claresholm in the position of Chief Administrative Officer or, in his/her absence, the person appointed as Acting Chief Administrative Officer;
 - f) “**Control**” in reference to weeds means:
 - i) Cut, mow or carry out measures designed to inhibit propagation of the weed, or
 - ii) Destroy the weed if specified by a Community Peace Officer, Bylaw Enforcement Officer or Weed Inspector employed by the Town of Claresholm;
 - g) “**Council**” means the Council of the Town of Claresholm;
 - h) “**Court**” means the Provincial Court of Alberta;
 - i) “**Designated Officer**” means a person authorized by Council to act pursuant to Section (542) of the Municipal Government Act, but not limited to performing inspections and any other action required to enforce the provisions of this Bylaw. For the purpose of this

Bylaw, the Designated Officer shall be the Enforcement Officer.

- j) “**Enforcement Officer**” means a Community Peace Officer, Bylaw Enforcement Officer, RCMP Constable or other person appointed by the Town who is authorized to enforce Bylaws of the Town of Claresholm;
- k) “**Garbage**” means any household or commercial rubbish including, but not limited to, boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, discarded clothing or fabric and discarded household items;
- l) “**Graffiti**” means words, figures, letters or drawings scribbled, scratched, painted or sprayed upon any surface without the consent of the owner of the building or premise on which such graffiti is placed;
- m) “**Highway**” is as defined in the *Traffic Safety Act*;
- n) “**Including**” or “**Includes**” when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- o) “**Municipal Government Act**” means the *Municipal Government Act*, RSA 2000, Chapter M-26, as amended or replaced from time to time;
- p) “**Notice**” means a notice issued pursuant to this Bylaw directing an owner of a premises to remedy a condition that is not in compliance with a provision of this Bylaw;
- q) “**Nuisance**” means any condition or use of property which, in the opinion of a Designated Officer, constitutes an unreasonable interference with the use and enjoyment of other property and includes, without limiting the foregoing, those conditions set out in Section Three (3) of this Bylaw.
- r) “**Owner**” of a property or premise means:
 - i) a person who is registered under the *Land Titles Act* as the owner of the land;
 - ii) a person who is recorded as the owner of the property on the tax assessment of the Town;
 - iii) a person who has purchased or otherwise acquired the land, whether he has purchased or otherwise acquired the land directly from the owner or from another purchaser, and has not yet become the registered owner thereof;
 - iv) a person holding himself out as the person having the powers and authority of ownership of the property or premises or who for the time being exercises the powers and authority of ownership; or
 - v) a person controlling the property or premises under construction, or a person who is the occupant of the property or premises pursuant to a rental or lease agreement, license or permit;
- s) “**Person**” means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- t) “**Premises**” means any land situated in whole or in part within the Town including the external surfaces of all buildings and land immediately adjacent to any building or buildings and includes any land or buildings owned or leased by the Town;
- u) “**Provincial Offences Procedures Act**” means the *Provincial Offences Procedure Act*, RSA 200, Chapter P-34, and the regulations thereof, as amended or replaced from time to time;
- v) “**Residential Building**” means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, hospital, lodging house, hotel, motel, mobile home, tent, trailer, motor home, camper, or recreational vehicle of any type;
- w) “**Residential Development**” means any land that is the site of one or more residential buildings, excepting farms, ranches, and other land which is used for primarily agricultural purposes;
- x) “**Town**” means the municipal corporation of the Town of Claresholm in the Province of Alberta, or the area located within the Town of Claresholm's corporate limits, as the context so requires;
- y) “**Unightly Premises**” means any building or property or part of either that exhibits “visual evidence of a lack of general maintenance and upkeep”, as defined in this Bylaw,

and includes any premises upon which there is an excessive or unreasonable accumulation of:

- i) garbage, animal or human excrement, sewage, the whole or a part of an animal carcass, dirt, soil, gravel, rocks, petroleum products, hazardous materials, containers, boxes, paper products, disassembled equipment or machinery, broken household chattels or goods;
 - ii) the whole or any part of any vehicle or vehicles which are not registered with the Motor Vehicle Registry for the current year and which are inoperative by reason of disrepair, removed parts, or missing equipment, or any vehicles which are otherwise not in a roadworthy condition;
 - iii) equipment, household appliances, power tools or machinery which have been rendered inoperative by reason of disassembly, age or mechanical condition;
 - iv) animal material, ashes, building material, garbage, and yard material as defined in this Bylaw; or
 - v) any other form of scrap, litter, trash, junk, or waste of any kind;
- z) **“Vehicle”** has the same meaning as defined in the *Traffic Safety Act*, and includes any motorized vehicle that is unable to be moved under its own power;
- aa) **“Visual Evidence of a Lack of General Maintenance and Upkeep”** includes, in relation to a premises:
- i) significant physical deterioration of buildings or other improvements, or portions of either;
 - ii) broken or missing windows, siding, shingles, shutters, eaves, or other building construction or finishing materials;
 - iii) significant fading, chipping or peeling of painted areas of buildings or other improvements;
- bb) **“Weeds”** includes dandelions, nuisance and noxious weeds as defined by the *Weed Control Act*;
- cc) **“Yard Material”** means waste material of an organic nature formed as a result of gardening, horticultural pursuits, or agricultural activities and includes grass, tree and hedge cuttings, waste sod and decomposing plants, leaves and weeds.

SECTION 3 GENERAL PROHIBITION

- 3.1 No owner or owners of a premises shall cause, allow or permit the premises to become or to continue to be an “Unsightly Premises”, a nuisance, or a danger to public safety as defined by this Bylaw.
- 3.2 When making the determination as to whether a particular premises constitutes an “Unsightly Premises”, considerations shall include any admissible evidence as to:
- a) the general condition and state of tidiness of the neighbouring or surrounding premises;
 - b) the location and permitted use of the premises and whether or not the premises is located within a residential development;
 - c) the period of time the premises has been in the state complained of;
 - d) whether or not the premises is undergoing construction or renovation, and the period of time that such activity has been ongoing; and
 - e) any other circumstances or factors relating to the premises which is deemed relevant to the said determination.
- 3.3 When making the determination as to whether a particular premises constitutes a nuisance, considerations shall include any admissible evidence as to:
- a) the accumulation of rubbish, refuse or other waste products on the property;
 - b) any other circumstances or factors relating to the premises which is deemed relevant to the said determination.
- 3.4 When making the determination as to whether a particular premises constitutes a danger to public safety, considerations shall include any admissible evidence as to:
- a) whether the premises could endanger the safety of the general public;

- b) whether the premises constitutes the potential for significant danger, injury or harm, or damage to the general public;
- c) any other circumstances or factors relating to the premises which is deemed relevant to said determination.

3.5 Every owner or occupier of a premises shall ensure that graffiti placed on the premises is removed, painted over, or otherwise permanently blocked from public view within fourteen (14) days of the owner becoming aware or notified of the presence of said graffiti.

SECTION 4 WEEDS, GRASS, TREES, PESTS AND SMOKE

4.1 Every occupant or owner of any property or premises within the Town shall:

- a) eradicate or control all weeds and grass on the premises, and on any boulevard which abuts or adjoins the premises, including up to the center of lanes or alleys at the rear or side of the premises;
- b) prune or remove any and all trees located on the premises that, due to a deterioration of condition or for any other reason, interfere with any public utility or public works, and are a public safety hazard;
- c) remove or prune any shrub located on the premises which is, or could be, a nuisance to any person using any publicly owned or maintained sidewalk or street;
- d) prevent stagnant water from remaining on the premises so as to avoid it becoming a potential breeding place for mosquitoes or other pests;
- e) cut or mow the grass on any boulevard or street, situated on Town owned land adjoining, or abutting or adjacent to the premises owned or occupied by them, to prevent such grass from growing to such a height as to be unsightly, having regard to the height of the grass on adjacent or surrounding premises;
- f) remove from such property any dead grass or brush or rubbish which is clearly untidy or unsightly, or which may harbor vermin or pests therein; and
- g) cut or mow the grass on such property before said grass reaches such a height as to be unsightly, having regard to the height of the grass on adjacent or surrounding property.

4.2 No occupant or owner of any property or premises whether presently occupied or not shall:

- a) allow weeds to grow and propagate uncontrolled or excessively on the premises;
- b) suffer or permit trees, or other vegetation growing on the property, to interfere or endanger the lines, poles, conduits, pipes, or sewers or other works of the Town;
- c) allow any infectious blight or disease of the trees or other vegetation located on the property to go uncontrolled or unchecked; or
- d) allow, permit or cause any opaque or dense smoke or dust to be emitted to the atmosphere from the premises.

4.3 Where branches, foliage or other parts of trees, shrubs or other vegetation on a premises extend beyond the property lines of the subject premises, and interfere with or obstruct any public works of the Town, including power lines, traffic signage, street lighting, and the safe movement of vehicular and pedestrian traffic within the Town, the Chief Administrative Officer, the Town Superintendent, a Designated Officer or an Enforcement Officer may authorize the immediate removal, without notice, of any such interferences and obstructions.

4.4 Where the Town carries out any remedial measures as required pursuant to Section 4.3 of this Bylaw, neither the Town nor any employees or contractors thereof shall be held liable in any way in relation to any such remedial actions taken.

SECTION 5 CONSTRUCTION SITES

5.1 An owner of a property or premises being demolished or under construction shall ensure that building materials and waste materials on the premises are removed or contained and

secured in such a manner that prevents such material from being blown off or scattered from the property.

- 5.2 An owner of a property or premises being demolished or under construction shall ensure that waste building material on the premises is removed or secured within a reasonable time by means of appropriate containers.

SECTION 6 EXEMPTIONS & EXCEPTIONS

- 6.1 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 premises.
- 6.2 The owner of a premises that carries on, or permits the carrying on, of any activities referred to in Section 6.1 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 premises.
- 6.3 When determining whether the owner of a premises has "taken all reasonable steps" as required by Section 6.2, the Designated Officer's and Council's considerations shall include the considerations referred to in Section 3.2 of this Bylaw.

SECTION 7 SNOW AND ICE ON SIDEWALKS

- 7.1 An owner of a premises shall ensure:
- a) the removal from any public sidewalk located adjacent to the premises, including private driveway crossings, all snow and ice deposited thereon, whether from natural or unnatural means, within 24 hours of such deposit, or within 24 hours of the issuance of a Snow Removal Notice in respect of the premises; and
 - b) that the snow and ice removed pursuant to section 7.1(a) is not placed upon any highway or other public property administered by the Town.
- 7.2 For the purpose of Section 7.1(a), snow and ice will be considered removed when the sidewalk is cleaned for the entire width of sidewalk to the sidewalk surface as completely as reasonably possible.
- 7.3 For the purpose of Section 7.1(a), in the case of a sidewalk being below grade resulting in repeated coverage by ice or water through drainage or melted snow or rain, the sidewalk must be cleaned as completely as reasonably possible and a non-slip, non-corrosive and salt-free 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. The sidewalk condition must be communicated to the Chief Administrative Officer so it can be added to the list of sidewalk improvements and dealt with accordingly.
- 7.4 For the purpose of Section 7.1(a), where an owner or occupant of a premises reasonably anticipates being absent, the owner or occupant must make arrangements to ensure the sidewalks are maintained in accordance with this Bylaw.

SECTION 8 ENFORCEMENT

- 8.1 Where an owner or occupant of a premises is found by a Designated Officer to be in non-compliance with any provision of this Bylaw (excepting Section 7 – Snow and Ice on Sidewalks), the owner or occupant of the premises may be issued an Order containing the following information:
- a) the address and/or legal description of the property where remedial action is required;
 - b) the condition or conditions that are not in compliance with this Bylaw;
 - c) the remedial action that is required to bring the property into compliance;
 - d) the deadline for completion of the remedial action required, which must not be less than seven (7) days after the date of service of the Notice and must not be greater than thirty (30) days after the date of service of the Notice; and

- e) a statement that the Town may carry out the required remedial action at the owner's expense if the required work is not completed within the allowed time.
- 8.2 An application for an extension of the deadline provided for the completion of the remedial action required in a Notice issued pursuant to Section 8.1 of this Bylaw may be applied for in writing to an Enforcement Officer not later than seven (7) days after the service of the Notice. The application must include the reasons why the deadline extension is required, and the anticipated date for completion of the required remedial action. Any such deadline extension applied for may be allowed or refused at the sole discretion of the Enforcement Officer, and the extension shall not exceed sixty (60) days after the deadline provided in the Notice.
- 8.3 Any Notice issued pursuant to Section 8.1 of this Bylaw will be deemed to have been sufficiently served upon the owner or occupant of the premises when the Notice is:
- a) served personally upon the owner or occupant, or served in substitution upon any person who is 18 years of age or older who resides in the subject premises;
 - b) served personally upon the property manager or person apparently in charge of the premises, if the premises is not occupied or managed by the owner;
 - c) posted at a conspicuous location(s) near the main entry to the premises; or
 - d) mailed by regular mail to the owner of the premises using the address provided by the owner and/or on record with the Town of Claresholm as the mailing address for the owner of the premises, in which case the deemed date of service is five (5) days after the date of mailing.
- 8.4 The owner or occupant of a premises who has been served with a Notice issued pursuant to this Section shall fully comply with the Notice within either the original or extended time allowed for compliance.
- 8.5 Where the owner or occupant of a premises fails to comply with any provision of Section 7 (Snow and Ice on Sidewalks) of this Bylaw, an Enforcement Officer may issue and serve the owner with a Snow Removal Notice in accordance with the provisions of this Section. If the required remedial action (Snow and Ice Removal from Sidewalks) is not completed within 24 hours from the date of service of the Notice, the Town may take all reasonable measures to remove the snow and/or ice from the subject sidewalk(s) at the property-owner's expense, and the subject costs and expenses, if unpaid by the owner upon demand, shall be added to the Tax Roll of the subject property in accordance with Section 553(1) (g.1) of the *Municipal Government Act*, RSA 2000, c.M-26.
- 8.6 Where an Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw, he/she may commence enforcement of the Bylaw in relation to that person by:
- a) issuing the person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act;
 - b) swearing out an Information and Complaint against the person; or
 - c) in lieu of prosecution, issuing the person a Bylaw Violation Tag, in a form as approved by the Chief Administrative Officer.
- 8.7 Where an Officer issues a person a Violation Ticket in accordance with Section 9.1(a) of this Bylaw, the officer may either:
- a) allow the person to pay the specified penalty as provided for in Section 11 of this Bylaw by indicating such specified penalty on the Violation Ticket; or
 - b) require a Court appearance of the person, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act (POPA), where the Enforcement Officer reasonably believes that such appearance is in the public interest.
- 8.8 No provision of this Bylaw or any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude an Enforcement Officer or the Town from pursuing any other remedy in relation to a premise or nuisance as provided by the Municipal Government Act, any other law of the Province of Alberta, or any other Bylaw of the Town of Claresholm.

SECTION 9 VIOLATION TICKETS

- 9.1 Where an Enforcement Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw, the Enforcement Officer may commence enforcement of the Bylaw in relation to that person by:
 - a) issuing the person a Bylaw Violation Tag, in a form as approved by the CAO;
 - b) if the Violation Tag penalty is not paid within the specified period, the person shall be issued a Violation Ticket pursuant to the provisions of Part Two (2) of the Provincial Offences Procedures Act (POPA);
 - c) if the Violation Ticket penalty is not paid within the specified period, the Enforcement Officer shall swear out an Information and Complaint against the person;
 - d) any penalties assessed shall be per "Schedule 'A' – Minimum Specified Penalties."

SECTION 10 GENERAL PENALTY PROVISION

- 10.1 Any person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of ten thousand dollars (\$10,000), or in default of payment of the fine to imprisonment for a period not exceeding one (1) year, or to both fine and imprisonment in such amounts.

SECTION 11 GENERAL

- 11.1 It is the intention of the Council of the Town of Claresholm that each provision of this Bylaw should be considered as being separate and severable from all other provisions. Should any section or provision of this Bylaw be found to have been improperly enacted, then such section or provision shall be regarded as being severable from the rest of this Bylaw and that the Bylaw remaining after such severance shall remain effective and enforceable.
- 11.2 It is the intention of the Council of the Town of Claresholm that all offences created pursuant to this Bylaw be construed and considered as being Strict Liability Offences.
- 11.3 Whenever the singular and masculine gender is used in this Bylaw, the same shall include the plural, feminine and neuter gender whenever the context so requires.

SECTION 12 REPEAL OF PREVIOUS BYLAW

- 12.1 Bylaw No. 1522, the "Unsightly Premises and Snow Removal Bylaw" and any amendments thereto, are hereby repealed.


SECTION 13 PASSAGE OF BYLAW

- 13.1 This Bylaw shall come into effect upon passage of Third Reading.

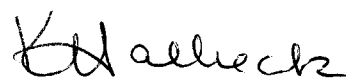
Read a first time in Council this **9th** day of **November** 2009 A.D.

Read a second time in Council this **23rd** day of **November** 2009 A.D.

Read a third time in Council and finally passed in Council this **23rd** day of **November** 2009 A.D.



Rob Steel, Mayor



Kris Holbeck, CAO

SCHEDULE "A" MINIMUM AND SPECIFIED PENALTIES AND FEES

1. The minimum and specified penalty for a violation of any provision of this Bylaw (excepting the provisions of Sections 3.4, 4, and 7) is a fine in the amount of:
First Offence: \$350.00
Second Offence: \$700.00
Third Offence: \$1,500.00
2. The minimum and specified penalty for a violation of Section 3.4 of this Bylaw is a fine in the amount of:
First Offence: \$500.00
Second Offence: \$1,000.00
Third Offence: \$1,500.00
3. The minimum and specified penalty for a violation of a provision of Sections 4 and 7 of this Bylaw is a fine in the amount of:
First Offence: \$250.00
Second Offence: \$500.00
Third Offence: \$1,000.00
4. The minimum and specified penalty for any violation of this Bylaw four (4) times or more and for each subsequent offence shall be a fine in the amount of one thousand five-hundred dollars (\$1,500.00).
5. The fee to appeal a written order shall be one hundred dollars (\$100).
6. The penalty in lieu of prosecution for a violation of any provision of this Bylaw proceeded with in accordance with Section 9.1(c) is one-half (50%) of the minimum and specified penalty provided for the particular offence by this Section.