

BYLAW #07-2007

A BYLAW OF THE VILLAGE OF HAY LAKES, IN THE PROVINCE OF ALBERTA, TO REGULATE NUISANCES

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time, provides the Council of the Village of Hay lakes with the authority to pass bylaws respecting Nuisances;

AND WHEREAS the *Safety Codes Act*, R.S.A. 2000, c. S-1, as amended or repealed and replaced from time to time provides the Council of the Village of Hay lakes with the authority to establish minimum standards for the maintenance of buildings and structures;

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

SECTION 1 – SHORT TITLE

1. This bylaw may be referred to as The Village of Hay lakes "Nuisance Bylaw".

SECTION 2 – DEFINITIONS

2. The following words shall be defined terms for the purpose of this bylaw:

- 2.1 "Abandoned Equipment" means equipment or machinery, which has been rendered inoperative by reason of its disassembly, damage, age or mechanical condition, and includes, but is not limited to, any household appliance stored outside of a residence or other Structure regardless of whether or not it is in an inoperative condition.
- 2.2 "Abandoned Vehicle" means the whole or any part of any Motor Vehicle or farm implement that is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition, and is not located in a Structure or located on Property such that it can be concealed from view.
- 2.3 "Bylaw Enforcement Officer" means a Bylaw Enforcement Officer appointed by the Village, pursuant to the *Municipal Government Act*, for the purpose of

enforcing the Village's bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.

- 2.4 "Council" means the Municipal Council of the Village of Hay lakes.
- 2.5 "Motor Vehicle" means a vehicle propelled by any power other than muscular power, or a moped.
- 2.6 "Municipal Government Act" means the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time.
- 2.7 "Nuisance" means any condition or use of, or emission from, Property which, in the opinion of a designated officer, is unsightly, offensive, dangerous to public health or safety or which interferes with the use or enjoyment of other Property and includes, without limiting the forgoing, those conditions set out at Section 3.2.
- 2.8 "Order" means an order issued by a designated officer in accordance with section 5.4 as described in Section 545 of the *Municipal Government Act*.
- 2.9 "Owner" means any Person registered as the owner of Property under the *Land Titles Act*, R.S.A. 2000, c. L-4, as amended or repealed and replaced from time to time;
- 2.10 "Person" means a corporation, partnership, or individual, and the heirs, executors, administrators or other legal representatives of an individual.
- 2.11 "Property" means any lands, or Structures on lands, including any personal property located thereupon, within the municipal boundaries of the Village.
- 2.12 "Provincial Offences Procedures Act" means the *Provincial Offences Procedures Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time.
- 2.13 "Reasonable State of Repair" means the condition of being:
 - 2.13.1 structurally sound;
 - 2.13.2 free from damage, rot or other deterioration; and
 - 2.13.4 safe for its intended use.

- 2.14 "Refuse" means all solid and liquid waste including, but not limited to: organic and inorganic household, yard and garden waste, building materials, tires, boxes or any other form of waste or garbage.
- 2.15 "Structure" means a building, improvement or other thing erected or placed in, on, over or under land.
- 2.16 "Violation Tag" means a tag or similar document issued by the Village pursuant to the *Municipal Government Act* for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow.
- 2.17 "Violation Ticket" means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*.

3. **SECTION 3 – NUISANCES**

- 3.1 No Person shall cause or allow Property or his use of Property to constitute a Nuisance.
- 3.2 Conditions in, on, or around Property that constitute a Nuisance shall include, but not be limited to:
 - 3.2.1 the accumulation of Refuse;
 - 3.2.2 the presence of Abandoned Vehicles and Abandoned Equipment;
 - 3.2.3 grass or weeds in excess of ten centimeters in length;
 - 3.2.4 the presence of animal carcasses, hazardous materials, noxious fumes, manure or sewage;
 - 3.2.5 the presence of trees, shrubs, or other vegetation that interferes with civic works or any public utilities and shall include the obstruction of a sidewalk, highway or public place;
 - 3.2.6 the failure to keep Property in a Reasonable State of Repair; and
 - 3.2.7 the presence of excavations, structures, materials or any other hazard or condition which poses a danger to public safety.

4. **SECTION 4 – MAINTENANCE STANDARDS**

4.1 All Structures on Property shall be maintained so that:

- 4.1.1 the foundations;
- 4.1.2 exterior walls;
- 4.1.3 roof;
- 4.1.4 windows, including frames, shutters and awnings;
- 4.1.5 doors, including frames and awnings;
- 4.1.6 steps and sidewalks; and
- 4.1.7 fences;

are kept in a Reasonable State of Repair.

4.2 All fixtures, improvements, renovations, or additions to any Structure on Property, including but not limited to:

- 4.2.1 exterior stairs;
- 4.2.2 porches;
- 4.2.3 decks;
- 4.2.4 patios;
- 4.2.5 landings;
- 4.2.6 balconies; or
- 4.2.7 other similar structures

shall be maintained in a Reasonable State of Repair.

5. **SECTION 5 – INSPECTION AND ENFORCEMENT**

5.1 For the purpose of inspection and enforcement under this bylaw, a Bylaw Enforcement Officer is a designated officer.

5.2 A designated officer may enter any Property in the Village in order to carry out an inspection, enforcement or other action required or authorized by this Bylaw, the *Municipal Government Act*, or any other statute.

5.3 Before conducting an inspection or enforcement under Section 5.2, a designated officer shall provide the Owner or occupant of the Property with reasonable notice as required by the *Municipal Government Act*.

- 5.4 Where contravention of this Bylaw has occurred or is occurring, a designated officer may issue an Order to the Owner of the Property or any other Person responsible for the contravention, or both of them.
- 5.5 An Order issued by a Designated Officer under Section 5.4 may:
 - 5.5.1 direct the Person to whom the Order is issued to stop doing something, or change the way in which the Person is doing that thing;
 - 5.5.2 direct the Person to take any action or measure necessary to remedy the contravention of this Bylaw, including but not limited to improving the appearance of the Property or Structure, cutting or removing trees and shrubs, and removing or demolishing a Structure that is in contravention of this Bylaw;
 - 5.5.3 state a time period within which the Person must comply with the directions stated in the Order;
 - 5.5.4 state that if the Person does not comply with the directions provided in the Order within a specified time the Village may take any action or measure reasonably necessary to remedy the contravention and may charge the Person for costs incurred to remedy the contravention.
- 5.6 An Order issued by a designated officer under Section 5.4 shall notify the Person to whom the Order is issued of the right to apply by written notice for a review of the Order by Council, and the required fee for such application as set out in Schedule "B".
- 5.7 An Order issued under this Bylaw may be served
 - 5.7.1 in the case of an individual:
 - 5.7.1.1 personally to the individual, or
 - 5.7.1.2 by leaving it for the individual at his residence with a Person on the premises who appears to be at least eighteen (18) years of age;
 - 5.7.2 in the case of a partnership or corporation, personally or by registered mail to either the registered office or business address of the partnership or corporation.

- 5.8 Notwithstanding subsection 5.7, a copy of the Order may be posted in a conspicuous place on the Property referred to in the Order if service cannot otherwise reasonably be effected.

6. **SECTION 6 – RECOVERY OF COSTS**

- 6.1 The costs of any action or measure taken by the Village under this Bylaw are an amount owing to the Village by the Owner of the Property or any other Person responsible for the contravention, or both of them.
- 6.2 If the Village sells all or part of a Structure that has been removed under this Bylaw, the proceeds of the sale must be used to pay the costs of the removal and any excess proceeds must be paid to the Person entitled to them.
- 6.3 The costs incurred by the Village in the enforcement of this Bylaw may be collected as a civil debt or, in the case of an Order issued to an Owner where all or a portion of the contravention occurred on the Owner's Property, added to the tax roll of the Property that is the subject of the enforcement proceedings under this Bylaw.
- 6.4 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.
- 6.5 If the Village registers a caveat under Section 6.4, 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.

7. **SECTION 7 – REVIEW OF ORDER**

- 7.1 A Person to whom an Order is issued pursuant to Section 5.4 may request a review of the Order by written notice to Council and payment of the required application fee within fourteen (14) days of the day on which the Order is received by that Person.
- 7.2 A Notice under Section 7.1 shall state the Person's reasons for disagreement with the Order and set out the relief sought from Council in the review.

- 7.3 Upon review of the Order, Council may confirm, vary, substitute or cancel the Order.
- 7.4 A Person affected by a decision of Council under Section 7.2 may appeal to the Court of Queen's Bench, in accordance with Section 548 of the *Municipal Government Act*.

8. **SECTION 8 – OFFENCES**

- 8.1 Any Person who fails to comply with an Order issued under Section 5 is guilty of an offence.
- 8.2 Notwithstanding whether an Order has been issued under Section 5, any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable, upon summary conviction, to a penalty as set out in Schedule "A".

9. **SECTION 9 – VIOLATION TAG**

- 9.1 A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person, whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 9.2 A Violation Tag shall be served in a manner set out in Section 5.7 above.
- 9.3 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
 - 9.3.1 the name of the Person to whom the Violation Tag is issued;
 - 9.3.2 a description of the Property upon which the offence has been committed, if applicable;
 - 9.3.3 a description of the offence and the applicable Bylaw Section;
 - 9.3.4 the appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;

- 9.3.5 that the penalty shall be paid within twenty-two (22) days of the issuance of the Violation Tag in order to avoid prosecution; and
 - 9.3.6 any other information as may be required by the Chief Administrative Officer.
- 9.4 Where a Violation Tag has been issued pursuant to this Bylaw, the Person to whom a Violation Tag has been issued may, in lieu of being prosecuted for the offence, pay to the Village Office the penalty specified on the Violation Tag.

10. **SECTION 10 – VIOLATION TICKET**

- 10.1 In the event that a Violation Tag has been issued and the penalty specified on the Violation Tag has not been paid within the prescribed time, a Bylaw Enforcement Officer may issue a Violation Ticket, pursuant to Part 2 of the *Provincial Offences Procedure Act*, to the Person to whom the Violation Tag was issued.
- 10.2 Notwithstanding Section 10.1, a Bylaw Enforcement Officer may immediately issue a Violation Ticket to any Person whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
- 10.3 A Violation Ticket issued with respect to a violation of this Bylaw shall be served upon the Person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*.
- 10.4 The Person to whom the Violation Ticket has been issued may plead guilty by making a voluntary payment in respect of the summons by delivering to the Provincial Court, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided by this Bylaw.
- 10.5 When a clerk records in the Court records the receipt of a voluntary payment pursuant to Section 7.10 and the *Provincial Offences Procedure Act*, that act of

recording constitutes acceptance of the guilty plea and also constitutes the conviction and the imposition of a fine in the amount of the specified penalty.

11. **SECTION 11 – SEVERABILITY and COMING INTO FORCE**

11.1 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of this Bylaw shall be maintained.

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

12. **REPEAL**

Bylaw No. 6-98 and any amendments thereto are hereby repealed by passage of this Bylaw.

COMMENCEMENT OF ENFORCEMENT

READ a first time this 17th day of September, 2007.

READ a second time this 17th day of September, 2007.

READ a third time and passed this 24th day of September, 2007.

This Bylaw shall come into full force and effect on the 24th day of September 2007.

**THE VILLAGE OF HAY LAKES
PER:**

MAYOR

CHIEF ADMINISTRATIVE OFFICER

Schedule "A"

PENALTIES

Any Person that breaches a provision of the Village of Hay lakes Nuisance and Unsightly Premises Bylaw or an Order made thereunder may be subject to a fine of:

- a. \$300.00 for the first offence; and
- b. \$500.00 for any subsequent offences committed within twelve (12) months of the first offence.

Schedule "B"

Fees

A written notice requesting review of an Order by Council pursuant to Section 7 shall be accompanied by a fee of \$50.00 that shall only be returned to the applicant in the event that the whole of the Order is revoked by Council.