

**BY-LAW # 443-10  
OF THE VILLAGE OF HEISLER  
IN THE PROVINCE OF ALBERTA**

**BEING A BYLAW OF THE VILLAGE OF HEISLER IN THE PROVINCE OF ALBERTA  
TO REGULATE NUISANCES AND UNSIGHTLY AND UNTIDY PREMISES**

**PUSUANT TO THE AUTHORITY OF MUNICIPAL GOVERNMENT ACT, RSA 2000, c. M-26 AS AMENDED OR REPEALED AND REPLACED FROM TIME TO TIME, the Council of the Village of Heisler, duly assembled, ENACTS as follows:**

**1. SHORT TITLE**

1. This bylaw may be cited as the “Unsightly Premises Bylaw” of the Village of Heisler in the Province of Alberta.

**2. DEFINITIONS**

2. In this bylaw, unless the context otherwise requires, the term:
  - (a) ‘Animal material’ means any animal excrement and may include material accumulated on premises from pet pens, yards, stables, kennels or veterinary businesses.
  - (b) ‘Ashes’ means the powdery residue left after the combustion of any substance including partially burnt substances accumulated on premises.
  - (c) ‘Building material’ means all construction and demolition material accumulated on premises including materials hauled in or accumulated as a result of constructing, renovating, repairing or demolishing any structure and includes, but is not limited to, earth, vegetation or rock displaced during such activity.
  - (d) ‘Council’ means the Council of the Village of Heisler.
  - (e) ‘Enforcement Officer’ means any peace officer including a by-law enforcement officer of the Village of Heisler, or any other person appointed by Council to enforce the provisions of this by-law, and includes a member of the Royal Canadian Mounted Police.
  - (f) ‘Garbage’ means household waste including material containing organic matter which is or may become decomposed, and materials and by-products resulting from the preparation, consumption or storage of food.
  - (g) ‘Garbage container’ means a container that garbage may be placed in and that is capable of being closed and secured in such a way as to prevent animals and birds from gaining access to the contents.
  - (h) ‘MGA’ means the Municipal Government Act, R.S.A. 2000, c.M-26, as amended or repealed and replaced from time to time.

- (i) 'Nuisance' means
  - i. an offensive, annoying, unpleasant or obnoxious thing, object or practice that causes an intrusion or disturbance of a visual or sensory nature affecting another person's quiet enjoyment of his or her property.
  - ii. a practice that does, or potentially could, place unnecessarily stress on the infrastructure of the municipality including, but not limited to:
    - A. Failing to install, use, or maintain eaves troughs on a building connected to the municipal sewer system.
    - B. Failing to install, use, or maintain downspouts or a combination of downspouts and non-porous chutes of at least 2 metres in length on buildings connected to the municipal sewer system.
    - C. Failing to direct sump water out to the street.
    - D. Failing to provide or maintain landscaping that directs water away from a building connected to the municipal sewer system.
    - E. Using a mechanical device operated by the water pressure of a municipal water system when prohibited by an Order in Council.
    - F. Excessive use of water provided by the municipality as evidenced by runoff from the property to which the water is being applied.
  - iii. an act, or the omission of an act, that disrupts the natural drainage of surface water or, if permitted property development has affected same, the designated drainage of surface water.
- (j) 'Occupant' means a person authorized to occupy a property including, but not limited to, leasers and renters or persons visiting leasers or renters.
- (k) 'Order' means an Order as described in section 545 or 546 of the Municipal Government Act, as applicable.
- (l) 'Owner' means any person registered as the owner of the property, person recorded as the owner of the property on the assessment roll, person who has purchased or otherwise acquired the property, persons holding themselves out as the person having the power of authority of ownership of the property or a person controlling the property under construction, and includes a corporation, an individual and the heirs, executors, administrators or other legal representatives of an individual.
- (m) 'Premises' means any land, building or property within the municipal boundaries of the Village of Heisler and shall include any boulevards, sidewalks, curbs, street frontages and back alleys adjoining a particular land, building or property.

- (n) 'Unsightly and/or untidy premises' means a property or part of it that is detrimental to the surrounding area pursuant to the MGA, s. 546 as characterized by visual or sensory evidence of a lack of general maintenance and upkeep, or causing a decline in the market value of property in the area; including, but not limited to:
- i. the accumulation on the premises of any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, human excrement or sewage, or the whole or part of an animal carcass, dirt, soil, sand, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken or discarded household goods.
  - ii. the whole or part of any motor vehicle as defined in the Traffic Safety Act, RSA 2000, as amended or repealed and replaced from time to time, as well as any tractor or implement of husbandry:
    - A. that has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year, or
    - B. that is inoperative by reason of disassembly, age or mechanical condition.
  - iii. equipment or machinery that has been rendered inoperative by reason of its disassembly, age or mechanical condition and includes household appliances.
  - iv. animal material, yard material, ashes, building material, and garbage as defined in this bylaw.
  - v. any building, erection or structure that is unsightly or has become ruinous or dilapidated,
  - vi. any structure, excavation or hole that is unsafe, unprotected or dangerous to public health or safety.
  - vii. any combination of materials that is deemed by an Enforcement Officer to be unsightly or offensive.
  - viii. in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.
- (o) 'Violation tag' means a ticket or similar document issued by the Village pursuant to the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, repealed or replaced from time to time.
- (p) 'Violation ticket' means a ticket issued pursuant to the Provincial Offenses Procedure Act, RSA 2000, c.P-34, as amended, repealed or amended from time to time, and regulations there under.

(q) 'Work force' means persons engaged by the Village of Heisler for the purpose of enforcing an Order.

(r) 'Yard waste' means organic matter formed as a result of gardening or horticultural pursuits and includes grass clippings and tree or hedge cuttings.

### **3. VIOLATIONS**

3.1 No owner or occupant of a premise shall cause, allow, permit or maintain his or her premises in an unsightly, untidy or nuisance condition as defined in this bylaw.

3.2 No owner or occupant shall cause, permit, or allow to exist, a structure, excavation or hole that in the opinion of an Enforcement Officer may be a danger to public safety.

3.3 No owner or occupant shall cause, allow, or permit his or her property to become overgrown with dandelions or noxious weeds and plants.

3.4 No owner shall cause, allow or permit trees or shrubs on his or her property to interfere in any way with property owned by another person or operated by a municipal or public utility.

3.5 No person shall create a nuisance.

### **4. ENFORCEMENT**

4.1 An Enforcement Officer may, for the purposes of ensuring that this bylaw is complied with, enter in or upon the property in accordance with section 542 of the MGA to carry out an inspection, enforcement or other action required or authorized by this bylaw.

4.2 If an Enforcement Officer determines that a nuisance exists, or that the inspected property has become unsightly or untidy, or that a danger to the public safety exists the Enforcement Officer may direct the owner or occupant of the property upon which a nuisance or unsightly or untidy condition exists as follows:

(a) Issue a verbal or written warning to remedy the problem,

(b) Issue a violation tag specifying a voluntary penalty to be paid,

(c) Issue a violation ticket specifying a voluntary penalty to be paid,

(d) Issue a violation ticket directing that the owner or occupant appear before a Provincial Court Judge,

(e) Issue an Order under section 545 or 546 of the MGA to remedy the nuisance or unsightly condition.

- (f) Any combination of the above

#### 4.3 Each order

- (a) Shall describe the premises by name, if any, and the municipal address or legal land description.
- (b) Shall state the contravention pursuant to the provisions of this bylaw.
- (c) Shall give reasonable particulars of the extent of the remedy, clean up, removal, clearing or other actions required to be made.
- (d) Shall state the time within which the required actions are to be completed.
- (e) Shall state that if the required actions are not completed within the time specified, the Village may undertake to carry out the actions pursuant to the MGA and charge the cost thereof against the person to whom the order is directed and if said person does not pay the costs, the costs shall be charged against the premises concerned as taxes due and owing in respect of that property, and recovered as such.
- (f) Shall state that a person receiving a written Order may request that Council review the Order.
- (g) Shall state that a request for Council to review the Order must be written including the reasons for requesting a review, dated, and signed by the appellant and delivered to the Village Administrator within fourteen (14) days after the Order issued pursuant to section 545 of the MGA is received by the person, or seven (7) days after which the Order issued pursuant to section 546 of the MGA is received by the person.

4.4 Within thirty (30) days of receiving a request, Council will review the Order and may vary, revoke, or uphold the Order and the time stipulated by the Order to remedy the nuisance or unsightly condition.

4.5 A copy of the Order shall be served on any owners or occupants of the premises

- (a) By being delivered personally to the person who is intended to be served, or
- (b) By being left with a person apparently over the age of eighteen (18) and residing with the owners or occupants of the premises, or
- (c) By being mailed to the person who is to be served using Registered mail to the last known postal address of the person to be served, and service shall be deemed to be affected fifteen (15) clear days after the date the registered letter was received at the post office to which it was directed, or
- (d) Where the premises is not occupied, by mailing using Registered mail to

the last known postal address of the person to be served, and service shall be deemed to be affected fifteen (15) clear days after the date the registered letter was received at the post office to which it was directed, or

(e) As directed by the Court.

4.6 The Enforcement Officer may, at his discretion, extend the time for doing anything directed in the Order considering the circumstances involved.

4.7 If the person to whom the order is directed does not satisfactorily comply with the directions of the Order as specified by an Enforcement Officer or, in the event of a review, as specified by Council

(a) An Enforcement Officer may enter into a process to enforce the terms of an Order in accordance with provisions pursuant to the MGA.

(b) The expenses incurred to process and execute an Order constitute a debt owed to the Village from the person to whom the Order is directed.

(c) The Village Administrator shall send a demand for payment of these expenses by regular mail to the person to whom the Order was directed.

(d) If the person to whom the Order was directed fails to pay, the expenses incurred by the Village will become an amount owing to the Village and may be added to the tax roll pursuant to the MGA.

4.8 Where the Village carries out an Order, the workers shall deposit any materials, vehicles, buildings, erections or structures at a location as designated by an Enforcement Officer and said property shall be disposed of in a manner determined by an Enforcement Officer.

4.9 Any moneys collected from the disposition of materials, vehicles, buildings, erections or structures may be applied against the costs incurred by the Village to execute the Order.

## **5. OFFENSES AND PENALTIES**

5.1 A person who contravenes Section 3.3, or 3.4 of this bylaw is guilty of an offence and liable, on summary conviction before a Provincial Court Judge to fines as listed in Schedule 1.1 of this bylaw.

5.2 A person who contravenes section 3.1 or 3.2 of this bylaw is guilty of an offense and liable, upon summary conviction before a Provincial Court Judge to fines as listed in Schedule 1.2 of this bylaw.

5.3 In addition to the fines stipulated in sections 5.1 and 5.2 of this bylaw, a Provincial Court Judge may make any other order deemed appropriate concerning a breach of this bylaw.

5.4 Notwithstanding sections 5.1 and 5.2 of this bylaw, an Enforcement Officer may issue a violation tag to a person who the Enforcement officer has reasonable and probable grounds to believe has contravened any provision of this bylaw:

- (a) specifying a voluntary payment as described in Schedule 1.3 of this bylaw; and
- (b) the person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the Village or Bylaw Enforcement Officer the penalty specified within the time period indicated on the violation tag.

5.5 A violation tag shall be deemed to have been sufficiently served if

- (a) served to the accused directly, or
- (b) mailed to the address of the registered owner of the vehicle or person occupying a property, or
- (c) secured to the vehicle or property in respect of which the offense is alleged to have been committed.

5.6 In those cases where a violation tag has been issued and the penalty specified on the violation tag has not been paid within the prescribed time, then an Enforcement Officer may issue a provincial violation ticket specifying that a voluntary payment be made as described in Schedule 1.4 of this bylaw.

5.7 Notwithstanding section 5.4 of this bylaw, an Enforcement Officer may immediately issue a provincial violation ticket to any person who the Enforcement Officer has reasonable grounds to believe has contravened any provisions of this bylaw, specifying that

- (a) a voluntary payment be made as described in Schedule 1.4 of this bylaw; or
- (b) if it is in the public interest to compel the accused to appear before a Judge, issue a summons respecting any offense for which a voluntary payment may be made requiring the accuse to appear before a Provincial Court Judge on the initial appearance date without the alternative of making a voluntary payment.

5.8 The levying and payment of any fines shall not relieve a person from the necessity of remedying the situation that created the violation of any section of this by-law.

## **6. SEVERABILITY PROVISION**

6.1 Should any provision of this bylaw be invalid, then such provision shall be severed and the remaining bylaw shall be maintained.

## **7. REPEAL – BYLAW 331-07**

7.1 Village of Heisler Bylaw # \_\_\_\_\_ is hereby repealed

**8. EFFECTIVE DATE**

8.1 This bylaw shall take effect on the date of passing thereof.

**READ A FIRST TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2010.**

**READ A SECOND TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2010.**

**READ A THIRD AND FINAL TIME THIS \_\_\_ DAY OF \_\_\_\_\_,  
2010 AND FINALLY PASSED.**

**X**

---

Sean Maciborski  
Mayor

**X**

---

Brenda Loesch  
CAO

**SCHEDULE A**

**SCHEDULE A.1**

- (a) for a first offense, a fine in the amount of \$300.00,
- (b) for a second offense, a fine in the amount of \$600.00,
- (c) for a third or subsequent offense, a fine in the amount of \$1200.00.

**SCHEDULE A.2**

- (a) for a first offense, a fine in the amount of \$500.00,
- (b) for a second offense, a fine in the amount of \$1000.00,
- (c) for a third or subsequent offense, a fine in the amount of \$2000.00.

**SCHEDULE A.3**

- (a) for a first offense, a voluntary payment in the amount of \$75.00,
- (b) for a second offense, a voluntary payment in the amount of \$150.00,
- (c) for a third or subsequent offense, a voluntary payment in the amount of \$300.00.

**SCHEDULE A.4**

- (a) for a first offence, a voluntary payment in the amount of \$150.00,
- (b) for a second offense, a voluntary payment in the amount of \$300.00,
- (c) for a third or subsequent offense, a voluntary payment in the amount of \$600.00.