



**VILLAGE OF CONSORT
BYLAW A799**

**BEING A BYLAW OF THE VILLAGE OF CONSORT IN THE PROVINCE OF ALBERTA TO
REGULATE UNTIDY AND UNSIGHTLY PREMISES, PESTS AND NUISANCES.**

WHEREAS, under the authority of the Municipal Government Act, RSA 2000, cM-26 and amendments thereto, Council may establish Bylaw with respect to nuisances generally and regulating untidy and unsightly private and public property;

AND WHEREAS the Council of the Village of Consort deems it expedient and in the public interest to pass such a Bylaw;

NOW THEREFORE the Council of the Village of Consort in the Province of Alberta, duly assembled, hereby enacts as follows:

1. **Short Title**

- a) This Bylaw may be cited as the "Nuisance Bylaw".

2. **Definitions**

- a) **"Animal Material"** means any animal excrement and includes all material accumulated on a premises from pet pens or pet yards, hunting excursions, veterinary clinics, animal hospitals, or kennels;
- b) **"Authorized Person"** means Bylaw Enforcement Officer or CAO;
- c) **"Boulevard"** means that portion of a street which lies between the roadway and the front property line of the land abutting said street;
- 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, containers of building material, gravel, concrete, asphalt, and any earth, rocks or vegetation displaced during construction, renovation or demolition or any building or other structure;
- e) **"Bylaw Enforcement Officer"** means a Bylaw Enforcement Officer appointed by Council and includes CAO, a member of the RCMP, and when authorized a Community Peace Officer;
- f) **"CAO"** means the Chief Administrative Officer for the Village or his/her designate, regardless of the specific title that may be conferred on that Officer by Council from time to time;
- g) **"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 so requested by an Authorized Person or Weed Inspector employed/authorized/contracted by the Village of Consort; or
 - III. Carry out other measures as prescribed by an Authorized Person or Weed Inspector employed/authorized/contracted by the Village of Consort;
- h) **"Council"** means the duly elected council for the Village of Consort;
- i) **"Derelict Vehicle"** means any vehicle that has parts missing, appears un-drivable, and not in a roadworthy condition;
- j) **"Garbage"** means any household or commercial rubbish including, but not limited to, boxes, cartons, bottles, cans, containers, packaging, wrapping material, waste paper, cardboard, food, and discarded clothing, fabric or other household item;
- k) **"Graffiti"** means any words, figures, letters or drawings, scribbled, scratched, painted, or sprayed upon any surface without the consent of the owner of the building or premises on which such graffiti is placed;
- l) **"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, and any regulations thereunder;
- m) **"Nuisance"** means any act or deed, or omission, or thing, which is, or could reasonably be expected to be annoying, or troublesome, or destructive, or harmful, or inconvenient, or injurious to another person and/or his/her property, or anything troublesome or bothersome to other people for which complaints are received;
- n) **"Occupant"** means any Person other than the Owner who is in possession of the Property, including but not limited to, a licensee, tenant or agent of the Owner;
- o) **"Owner"** means
 - i. Any person registered as the Owner of the Property under the *Land Titles Act*;
 - ii. Any person who is recorded as the Owner on the property on the assessment roll of the Village;
 - iii. Any person who has become the beneficial Owner of the property, including by entering into a Purchase and Sale Agreement, whether they have purchased or otherwise acquired directly from the Owner or from another purchaser, and who has not yet become the registered Owner thereof;
 - iv. Any person holding himself out as the person exercising the power or authority of ownership or, who for the time being exercises the powers and authority of ownership over the property; or
 - v. Any person in control of property under construction;

- p) **“Person”** means a corporation, partnership, individual, or owner and the heirs, executors, administrators or other legal representative of an individual;
- q) **“Rubbish”** means and includes any paper product, or fabric, or wood, or plastic, or glass, or metal and/or any matter or substances of any kind which has been discarded, or abandoned, or in any way disposed of;
- r) **“Property”** means land, buildings, excavations, stockpiles, structures and appurtenances, or any personal property located thereupon within the Village;
- s) **“Untidy” or “Unsightly Premises”** means any property or part of it that exhibits visual evidence of lack of general maintenance, clean-up and upkeep, including the excessive accumulation on the premises, of;
 - I. Garbage, animal or human excrement, sewage, the whole or part of an animal carcass, dirt, soil, gravel, rocks, petroleum products, hazardous materials, 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 roadworthy condition (one unregistered vehicle – not dismantled – is allowed on a property but must be covered properly);
 - III. Equipment, household appliances, power tools or machinery which has been rendered inoperative by reason of disassembly, age or mechanical condition;
 - IV. Animal material, 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;;
- t) **“Village”** means the Village of Consort;
- u) **“Violation Tag”** means a tag or similar document issued by the Village pursuant to the *Municipal Government Act*.
- v) **“Violation Ticket”** means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act*;
- w) **“Weeds”** means any plants designated as restricted, noxious or nuisance weeds in accordance to the *Weed Control Act*, being a Statute of the Province of Alberta;
- x) **“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;

3. **REGULATIONS**

- 3.1 Every occupant or owner of any property within the Village of Consort shall;
 - a. Not permit the land or premises of such property to be or remain to be a nuisance, untidy or unsightly;
 - b. Not permit any building structure or erection of any kind whatsoever (i.e. loose siding, loose shingles or unsightly fences), or any excavation, depression, drain or ditch, watercourse, pond, surface water or other matter or thing to remain a nuisance and/or dangerous to the public ;
 - c. Prevent stagnant water from remaining on the premises so as to avoid it becoming a potential breeding place for mosquitoes or other pests;
 - d. Cut or mow 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.
- 3.2 Every occupant or owner shall be required to cut the grass and/or weeds on any boulevard which abuts flanks or adjoins the property occupied by the owner or occupant. This includes lanes or alleys at the rear of the premises or property.
- 3.3 All occupants shall be required to control dandelions and noxious weeds, and to cut grass on property they own or occupy.
- 3.4 All occupants shall prune, remove or otherwise maintain trees and shrubs that interfere with or endanger public property or works of the municipality.
- 3.5 No person shall permit the accumulation of dirt, stones, old implements, automobiles, scrap iron or any rubbish so as to cause an unsightly condition, hazard or nuisance.
- 3.6 No person shall permit the proliferation of, or harbor, any insect, animal, or other pest that is likely to spread disease, be destructive or dangerous, or otherwise become a nuisance.
- 3.7 Lawn clippings or any yard waste shall not be piled or deposited loose in alley, boulevards or any other public lands.
- 3.8 All occupants shall remove dirt, debris or any other materials which may cause an obstruction or risk personal injury from sidewalks abutting their property.
- 3.9 All outdoor salvage yards, auto wreckers or other business which by their nature appear to be untidy, shall be obscured by approved screening from the surrounding property.
- 3.10 No Person shall post or exhibit, or cause, permit or allow to be posted or exhibited on a highway or public place, any placard, any playbill, poster, printed or other notice, sign writing or picture, without the prior written permission of the CAO.
- 3.11 The Authorized Person is hereby authorized to remove and destroy any such placard, playbill, poster, printed or other notice, sign, writing or

picture erected or maintained without the permission required by section 3.10 of this bylaw.

4. **CONSTRUCTION SITES**

- 4.1 Contractors and Developers shall at all building construction sites have and use an adequate container designed to contain all construction debris and rubbish.
- 4.2 Upon such container being filled it must be completely secured in such a manner so that no portion of the load can escape, blow, drop, or spill, or fall onto a highway or land adjacent thereto. It must then be transported away to an appropriate location designated for the disposal of such materials.

5. **EXEMPTIONS & EXCEPTIONS**

- 5.1 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 premises.
- 5.2 The owner of a premises that carries on or permits the carrying on of any activities referred to in section 5.1 of this Bylaw shall ensure that all reasonable steps are taken to minimize the duration and visual impact of any resulting untidiness or unsightliness if the premises.
- 5.3 Whether or not an owner has taken "all reasonable steps" to minimize the duration and visual impact of any resulting untidiness or unsightliness of a premises, as referred to in section 5.2 of the Bylaw, is a question of fact to be determined by the Court hearing a prosecution pursuant to the provisions of this Bylaw.

6. **BYLAW COMPLIANCE NOTICES**

- 6.1 Where an owner or occupant of a premise is found by an Authorized Person to be in non-compliance with any provision of the Bylaw, the owner of the premises may be issued a Notice containing the following provisions:
 - 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. The deadline for completion of the remedial action must not be less than 7 days after the date of service of the Notice and must not be greater than 30 days after the date of service of the Notice.
- 6.2 An application for an extension of the deadline for the completion of the remedial action required and provided for in a Notice may be applied for in writing to the Authorized Person not later than 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 Authorized Person, and the extension shall not exceed 60 days after the deadline provided in the Notice.

- 6.3 Any Notice issued pursuant to section 6.1 of the Bylaw will be deemed to have been sufficiently served upon the owner of the premises when the Notice is:
- a) Served personally upon the owner or occupant, or served upon any person who is 18 years of age or older who resided 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 in 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 within the Village of Consort as the mailing address for the owner of the premise.
- 6.4 The owner or occupant of a premise who has been served with a Notice issued pursuant to this section shall fully comply with the Notice within the time allowed for compliance.
- 6.5 Should any owner, occupant, agent or lessee fail, neglect, or refuse to comply with the direction of the notice, the Authorized Person may cause the work to be performed to remedy the condition, and charge the costs of such work to the owner of the property.

7. **ENFORCEMENT**

- 7.1 Where an Authorized Person has reasonable grounds to believe that a person has contravened any provision of this Bylaw, the Authorized Person may commence proceedings against such person by:
- a) Issuing the person a Violation Ticket pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*; or
 - b) Issuing the person a Municipal Violation Tag pursuant to the provisions of the Village of Consort bylaws; or
 - c) Swearing out an information and complaint against the person.
- 7.2 Where an Authorized Person issues a person a Violation Ticket in accordance with section 7.1 of this Bylaw, the officer may either;
- a) Allow the person to pay the specified penalty as provided for in Schedule "A" of this Bylaw by indicating such specified penalty on the Violation Ticket; or
 - b) Require a Court appearance of the person where the Authorized Person reasonably believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*.

- 7.3 Notwithstanding any other provisions of the Bylaw, an Authorized Person, upon receiving and reviewing a nuisance or unsightly premise complaint, shall assess the condition of the premise that is the subject of the complaint. The investigating officer shall then recommend or take whatever actions are considered appropriate to address the complaint, in all of the circumstances.
- 7.4 No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Village from pursuing any other remedy in relation to a premise or nuisance as provided by the *Municipal Government Act*, or any other law of the Province of Alberta.

8. **OFFENCES**

- 8.1 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" herein.
- 8.2 Notwithstanding section 8.1 of this Bylaw, any person who commits a second or subsequent offence under this Bylaw within one (1) year of committing the first offence is liable to the increased penalty as set out on Schedule "A" herein.
- 8.3 Any person who contravenes any provisions of this Bylaw is guilty of an offence. The charges and costs to the Village for rectifying the damages caused by the person who has contravened any provision of this Bylaw shall be borne by the person in contravention and if these charges and costs are not paid within sixty days (60) of an invoice being mailed the charges and costs shall be added to the tax roll and shall be collected in any of the ways provided for the collection of taxes according to the *Municipal Government Act R.S.A. 2000, Chapter M-26* or as amended.
- 8.4 Under no circumstances shall any person contravening any provisions of this Bylaw be subject to a penalty of imprisonment.

9. **VIOLATION TAGS**

- 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 provisions of this Bylaw.
- 9.2 A Violation Tag shall be served:
- i. Upon the person personally, or by leaving it with the person on the property who has the appearance of being at least eighteen (18) years of age; or
 - ii. In the case of a corporation or partnership, by serving the Violation Tag personally upon the Corporate Secretary or other Officer or person apparently in charge of a branch office by mailing a copy to such person by registered mail.
- 9.3 A Violation Tag shall be in a form approved by the CAO, and shall state:

- i. The name of the person to whom, the Violation Tag is issued;
- ii. A description of the property upon which the offence has been committed, if applicable;
- iii. A description of the offence and the applicable Bylaw section;
- iv. The appropriate penalty for the offence as specified in Schedule "A" of this Bylaw;
- v. That the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag in order to avoid prosecution; and
- vi. Any other information as may be required by the CAO.

9.4 Where a Violation Tag has been issued pursuant to section 21a), the person to whom the 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.

9.5 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 is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedures Act* to the person to whom the Violation Ticket was issued.

10. **VIOLATION TICKET**

10.1 Notwithstanding section 9.5, a Bylaw Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket to any person to whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

10.2 A Violation ticket issued with respect to a violation of this Bylaw may be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedures Act*.

10.3 The person to whom the Violation Ticket has been issued may plead guilty by making 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 any amount equal to the specified penalty for the offence as provided by this Bylaw.

10.4 Where a Clerk of the Court records in the court records the receipt of a voluntary payment pursuant to this Bylaw and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and imposition of a fine in the amount of the specified penalty.

11. **APPEAL PROVISIONS**

11.1 A person who considers him/herself aggrieved by a direction given pursuant to this Bylaw may appeal the direction to the Council.

11.2 An appeal under this section shall be delivered in person or sent by certified mail to the CAO within ten (10) days of the date on which the

direction was served on the owner, lessee, occupant or agent and shall deposit a fee of \$25.00 along with the appeal notice.

- 11.3 After considering the appeal, Council may confirm the direction or if it is satisfied that the direction is unreasonable, unjust or in any manner contrary to the intent and meaning of this Bylaw, set aside, vary or modify the direction.
- 11.4 If a person considers himself aggrieved by a decision under section 11.3, he/she may appeal the decision by originating notice to the Court of Queen's Bench within ten (10) days of the date which the decision is served on him.
- 11.5 The Court may confirm the decision of the Council or may set aside, vary or modify the direction.

12. **SEVERABILITY**

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

13. **COMING INTO FORCE**

- 13.1 Bylaw No. A668 is hereby repealed.
- 13.2 This Bylaw shall come into force and effect on the date of its third reading and final passing.

Read a first time this _____ day of _____, 20__.

Read a second time this _____ day of _____, 20__.

Read a third time and finally passed this _____ day of _____, 20__.

Mayor

Chief Administrative Officer



SCHEDULE 'A'
FEES AND PENALTIES

<u>Offence</u>	<u>Section</u>	<u>Penalty</u>
Cost of Issuance of Notice	6.1	\$200.00
Cost of Remediation if performed by Village Staff	6.5	\$50.00 per hour
Cost of Remediation if performed by contractor	6.5	Actual cost of invoice
First Offence	8.1	\$250.00
Second Offence	8.2	\$500.00
Third Offence	8.2	\$1,000.00
Any other subsequent Offences in any one year	8.2	\$1,000.00
Appeal Fee	11.2	\$25.00