

BYLAW NO. 01-07

OF

THE VILLAGE OF LINDEN

BEING A BYLAW OF THE VILLAGE OF LINDEN IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE ABATEMENT OF GENERAL NUISANCE AND THE REGULATION OF UNSIGHTLY PROPERTIES.

WHEREAS pursuant to the provision of Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26.1, and amendments thereto, Council may pass bylaws for municipal purposes respecting nuisance, including unsightly property.

NOW THEREFORE pursuant to the provisions of the Municipal Government Act, the Council of the Village of Linden duly assembled hereby enacts as follows:

1. DEFINITIONS

In this bylaw, unless the context otherwise requires, the following definitions apply:

- a) **Administration** means the general operations of the Municipality, including all personnel, financial and other related resources, as permitted by the *Municipal Government Act, RSA 2000, C. M-26*, and amendments thereto, and any successor legislation;
- b) **Bylaw Enforcement Officer** shall mean any person(s) duly appointed by Council or the Chief Administrative Officer to act on behalf of the Village of Linden;
- c) **Chief Administrative Officer** means the Chief Administrative Officer or designate for the Municipality and whatever subsequent title may be conferred on that officer by Council resolution or statute. (otherwise known as CAO);
- d) **Council** shall mean the Council of the Village of Linden;
- e) **Electronic Device** shall mean any device or mechanism which is operated by the application of electric current or battery, and without restricting the generality of the foregoing, includes any radio receiver, radio transmitter, record, tape, disk, or video recorder/player, or device which reproduces recorded sounds, television, amplifier and speaker systems, public address systems, alarm, or siren;
- f) **Hazard** means a risk or danger or to expose to a risk, danger or peril;
- g) **Litter** shall mean any thing lying about in disorder and/or scattered about carelessly;
- h) **Municipality** means the Village of Linden;
- i) **Nuisance** shall mean any act or deed, or omission, or thing, which is, or could reasonably be expected to be, annoying, troublesome, destructive, harmful, inconvenient, or injurious to other persons and/or their property;
- j) **Occupant** shall mean the person occupying or legally responsible for any property, whether owner, lessee, tenant, or agent of the owner;
- k) **Peace Officer** means a peace officer as defined in the Traffic Safety Act and includes a Bylaw Enforcement Officer as appointed by Council from time to time;
- l) **Pests** shall mean any animal, bird, reptile, or insect which causes or could reasonably be expected to cause annoyance, damage, or injury to any person, animal, or plant;

- m) **Person** means any individual, corporation, society, association, partnership or firm;
- n) **Property** shall mean anything owned by any person or business, whether in whole or in part, and includes real property;
- o) **Real Property** shall mean any land and/or building(s) whether occupied or not;
- p) **Rubbish** shall mean, but is not limited to, any paper product, fabric, wood, plastic, glass, metal, and/or any matter of substance of any kind which has been discarded or abandoned or in any way disposed of, or not in use;
- q) **Street(s)** shall mean any road or alley or lane, including all lands up to the property line of each side of such road, lane, or alley;
- r) **Structure** shall mean a fence, wall, screen, barrier, or similar assembly;
- s) **Violation Tag** means a tag or similar documents issued by the Municipality pursuant to the *Municipal Government Act*, R.S.A. 2000, c.M-26, and amendments thereto;
- t) **Violation Ticket** means a ticket issued pursuant to the *Provincial Offences Procedure Act*, R.S.A. 2000, c.P-34, as amended and the regulations there under;
- u) **Weeds** shall mean any plant or growth that is designated in the Weed Control Act of Alberta as restricted, noxious, or nuisance, and shall include any fungus which may be destructive or injurious to other vegetation or humans; or any growth that is deemed unsightly, obnoxious, or unpleasant.

2. REGULATIONS

- a) **UNTIDY OR UNSIGHTLY LAND AND/OR PREMISES**
Any property owner who permits the accumulation of building materials, other than in an enclosed building or structure, soil or any manner of earth, dirt, or stones, implements or vehicles, scrap iron, paper products, wood, or any other rubbish so as to cause an unsightly or untidy condition, a hazard or nuisance, shall upon written notice from the Chief Administrative Officer or their designate, remedy the condition within a fourteen (14) calendar day time period; and if the owner fails, neglects, or refuses to remedy the condition within the fourteen (14) calendar day time period, the Chief Administrative Officer or their designate may cause such work to be completed as deemed necessary to remedy the condition, with all costs incurred for same to be invoiced to the property owner.
- b) **CUTTING OF GRASS ON BOULEVARDS**
All property owners are required to maintain the green area on all boulevards which abut or flank the property owned by them, and shall upon notice from the Chief Administrative Officer maintain the area within a fourteen (14) calendar day period.
Where the property owner fails, neglects, or refuses to maintain the area on such boulevards within the fourteen (14) calendar day period, the Chief Administrative Officer may cause the work to be done, with all costs incurred for same being invoiced to the property owner.

c) CONTROL OF WEEDS

All property owners are required to control weeds and maintain the lawn and garden areas on all property owned by them in an aesthetically pleasing manner.

All owners shall, upon written notice from the Chief Administrative Officer, immediately provide for the eradication of noxious weeds, and upon seven (7) calendar day's written notice provide for the control of all other weeds and grasses.

Failure, neglect, or refusal to comply with the notice within the time period shall result in such work being conducted by the municipality, or its contractor, with costs for same being invoiced to the property owner.

d) MAINTENANCE OR REMOVAL OF TREES AND/OR SHRUBS

All property owners are required to prune or remove any trees, shrubs, or bushes that in any way interfere, endanger, or impede lines, poles, conduits, pipes, utility infrastructure of the Village, or any other public utility, or impede or interfere with the use of public thoroughfares and sidewalks.

Upon notice from the Chief Administrative Officer, the owner shall prune or remove any such trees, shrubs, or bushes within a seven (7) calendar day period from the date of notice.

Failure, neglect, or refusal to comply with the notice within the time period shall result in such work being conducted by the municipality, or its contractor, with costs for same being invoiced to the property owner.

e) OPEN FIRES

i) Open fires are permitted for camp fire type uses only, and only during periods when no fire bans exist;

ii) No burning barrels or pits are permitted within the Village for the purpose of disposing of garbage, debris, or grass cuttings;

iii) Every person who operates, uses, or permits to be used any furnace or fire for indoor heating purposes, is required to prevent the emission to the atmosphere of opaque or dense smoke to no more than a period of six (6) minutes in any one hour, at any other point than the opening to the atmosphere of a flue, stack or chimney.

f) NOISE ABATEMENT

See Bylaw #10-81 and 04-85

3. RIGHT TO INSPECT

Any person(s) authorized by the Council of the Village to do so, may enter any land, building, or premises to inspect for conditions that may constitute a nuisance or contravenes a bylaw.

4. REMEDIES, FORMS, AND SERVING OF NOTICE

The Chief Administrative Officer, or designate, may require the owner, agent, lessee, or occupier to remedy in a manner that they direct any

condition on the land that constitutes the nuisance or that contravenes the bylaw and impose appropriate fines and penalties in the case of failure to do so.

The Chief Administrative Officer, or designate, has the authority to:

- a) direct the owner of the property to remove any litter, debris, or rubble causing or contributing to an untidy or unsightly premises;
- b) require the owner to construct a building or structure to prevent the untidy or unsightly premises from being viewed from any public place;
- c) provide that if the owner neglects or refuses to remedy the condition to the satisfaction of the Chief Administrative Officer, to cause any work to be done that is considered necessary to remedy same;
- d) invoice the costs for the work undertaken to remedy the condition to the owner, and in default of payment:
 - i) recover the cost as a debt due to the Municipality; or
 - ii) charge the cost against the land concerned as taxes due and owing in respect of that land, and recover the cost as such; and
 - iii) make any other provision that the Council considers necessary to carry out the purpose of the bylaw.

SERVING OF NOTICE AND RIGHT OF APPEAL

- a) An owner who receives a notice, order, or direction requiring abatement of a nuisance or to remedy any condition that constitutes a nuisance, or that contravenes this bylaw, and who thinks themselves aggrieved, may appeal in writing within ten (10) calendar days to the Court of Queen's Bench and if it is satisfied that the Council has acted unreasonably or unjustly or in a manner contrary to the intent and meaning of the bylaw, it may set aside, vary or modify the notice, order, or direction of Council.

PENALTIES

- a) Every person who violates any provision of this bylaw for which no other provision for penalty has been made, is guilty of an offense and is liable on summary conviction:
 - i) For a first offense to a fine of \$100.00, plus costs;
 - ii) For a second offense to a fine of \$200.00, plus costs;
 - iii) For a third and subsequent offense to a fine of \$500.00, plus costs;
 - iv) Notwithstanding any other provisions for penalties in this bylaw, a Bylaw Enforcement Officer or Peace Officer, of Council, may in lieu of laying a charge in respect to the alleged breach, issue a voluntary penalty ticket and the accused may within seven (7) calendar days of the issuance of same pay to the Village of Linden the same monetary penalty as the minimum fine that may be imposed under the provisions of this bylaw.

By paying such monetary penalty as prescribed in this section, an accused shall be deemed to be guilty of the offense for which such penalty is paid.

In the event the prescribed voluntary penalty is not paid within the time allocated herein, the Bylaw Enforcement Officer or Peace

Officer may thereafter lay a charge in respect to the offence for which the voluntary penalty ticket was issued.

Bylaw #11-85 is hereby rescinded upon third and final reading of this bylaw.

This bylaw shall come into effect upon its third and final reading.

Read a first time this 12th day of February 2007

Read a second time this 12th day of February 2007

Read a third time and finally passed this 12th day of February 2007

Mayor

Municipal Administrator

APPROVED