

**TOWN OF CLARESHOLM
PROVINCE OF ALBERTA
BYLAW #1406**

The purpose of this Bylaw is to promote the maintenance of property within the Town in a tidy, pleasant and safe condition and to minimize nuisances.

WHEREAS the Municipal Government Act S.A. 1994 cM - 26.1 as amended authorizes the municipalities to pass bylaws with regard to nuisances, including unsightly properties.

NOW THEREFORE under the authority of the Municipal Government Act the municipal council of the Town of Claresholm duly assembled does hereby enact;

Part I - Definitions

1. a) **Appeal Notice** means a notice under section 13 in the form attached as Schedule “B.”
- b) **Appellant** means the person who is appealing the notice to comply or order issued.
- c) **Committee** means the Community Service Committee of Council.
- d) **Council** means the municipal Council of the Town.
- e) **Designated Officer** shall have the meaning provided in Section 1(h) of the Municipal Government Act.
- f) **Improvement** shall have the meaning provided in Section 284(1)(j) of the Municipal Government Act.
- g) **Nuisance** means a condition described in section 2.
- h) **Occupant** means a person other than the owner who is in possession of the land or other property, including, but not restricted to, a lessee, licensee, tenant or agent of the owner.
- i) **Order** means a written direction to remedy a nuisance from a Designated Officer to an owner or occupant, in the form attached as Schedule “B” as authorized by the Municipal Government Act.
- j) **Owner** means a person who:
 - i) holds out to be the person having the powers and authority of ownership or who currently exercises the powers and authority of ownership over the property,
 - ii) is registered as owner of the property under the Land Titles Act,
 - iii) has purchased or otherwise acquired the property, whether directly from a previous owner or from another purchaser and has not yet registered ownership, or
 - iv) the person listed as owner of the property on the current assessment roll.

For the purposes of this Bylaw a property may have more than one owner.
- k) **Property** includes any lands, buildings, premises or personal property in the Town of Claresholm.
- l) **Quorum** - two or more members of the Committee.
- m) **“Unsightly Condition”** premises means:
 - i) In respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and
 - ii) in respect of land, includes land that shows signs of serious disregard for general maintenance or upkeep.

Part II - What Is a Nuisance

2. A nuisance is any condition on or around property that is untidy, unsightly, offensive, dangerous to health or which interferes with the use or enjoyment of other property, and includes but is not limited to, the following:
 - a) uncut grasses or weeds on the property that are longer than 10 cm.
 - b) trees or shrubs that interfere with civic works or any public utilities, sidewalks, visibility of signs or traffic,
 - c) dense or opaque smoke emitted into the atmosphere for more than 6 minutes per hour,
 - d) dense or opaque dust emitted into the atmosphere,
 - e) smelly compost heaps,
 - f) wrecked or dismantled vehicles, or those that are unsightly and abandoned, unregistered or uninsured, and
 - g) The storage or accumulation of garbage, litter, refuse (including but not limited to building materials, tires, boxes, scrap material,) equipment, dilapidated furniture or appliances, machinery, machinery parts or other similar materials or items except where authorized by statute or bylaw,
 - h) Specific or general lack of repair or maintenance including but not limited to:
 - i) significant deterioration of improvements or portions of improvements;
 - ii) broken or missing windows, siding, shingles, shutters, eaves or other building materials; or
 - iii) significant fading, chipping or peeling of painted areas of improvements.

3. Nuisance Not Allowed

Owners, and occupants must prevent the occurrence of or immediately remedy any nuisance.

4. Town Need Not Enforce

The Town is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the Town may take into account any practical concerns, including available municipal budget and personnel resources.

Part III What Happens If My Property Is or May Cause a Nuisance?

5. Inspection

Any Designated Officer may inspect property to determine whether the property complies with this bylaw. The inspection shall be carried out pursuant to the authority of the Municipal Government Act.

6. Order

Where property does not comply with this Bylaw, the Municipality may pursue its enforcement alternatives in accordance with the Municipal Government Act including the issuance of an Order to remedy contravention, remedying of contraventions by the Municipality, adding amounts to the tax roll, or by pursuing any other remedy available by statute or common law, including but not limited to injunctive relief.

An Order issued pursuant to this section must state a time period within which the contravention must be remedied.

7. Service of Order

The Town must serve order by delivering it or sending it by mail to the owner registered as owner of the property under the Land Titles Act, and may also:

- a) deliver it in person to any other owner or occupant,
- b) post it to the door of a building or in any other conspicuous place on the property, and service is effected on the day of posting, or
- c) mail it to any other owner or occupant.

An Appeal Notice form must accompany the order when it is served.

Part IV
What Happens If I Don't Comply With The Order?

8. Fine

If the owner, tenant or agent has not complied with the direction by the specified deadline, a Bylaw Enforcement Officer may issue a ticket for a fine of:

- a) \$300.00 for a first offence by that owner or occupant, and
- b) \$500.00 for any subsequent offences by that owner or occupant.

9. Town May Remedy

Where property does not comply with this Bylaw, the Town may impose, as a condition of remedying the contravention, any condition authorized by Bylaw, the Municipal Government Act, or any other applicable statute.

An order issued pursuant to this section must state a time period within which the contravention must be remedied.

10. Failure to Remedy

If the owner or occupant fails to pay for the work done under section 9, the Town may:

- a) recover the cost as a debt due to the Town, or
- b) charge the cost against the land as taxes due and recover the cost as taxes.

The cost of the work done is charged in addition to any fine imposed under section 8.

11. No Liability

The Town, any Designated Officer who inspects any property under this Bylaw, or any person who performs any work on behalf of the Town to remedy a nuisance is not liable for any damages caused by the inspection, the work, or disposing of anything in order to complete the work set out in the direction.

Part V
What Can I Do If I Don't Think The Direction Is Fair?

12. Appeal of an Order

A person who receives a written Order under this Bylaw may, pursuant to Section 547 of the Municipal Government Act appeal to the Committee by delivering an appeal notice in person or by sending it by mail to:

The Town of Claresholm
Box 1000
Claresholm, AB T0L 0T0

within 14 days after the date upon which the order is received.

13. Date of Appeal

- (1) If the Town Coordinator receives an Appeal Notice, within the time period set out in Section 12 above the Town Coordinator must place the Appeal Notice on the Committee's Agenda.
- (2) When the matter has been placed on an agenda, the Town Coordinator must send written notice of the date of the hearing to the Appellant at the address given in the Appeal Notice and, if the Appellant is not the registered owner the Town must also send this written notice to that owner.
- (3) If the Town receives the Appeal Notice after the 14 day period referred to in (1), the Town will not place the Appeal Notice on the Committee's agenda. The Town will notify the Appellant at the address given in the Appeal Notice that the appeal will not be heard.

14. Appeal Hearing Procedure

The Mayor may appoint an alternate committee member from Council when required to ensure a quorum is present. When the Town places an Appeal Notice on the Committee's Agenda, the Committee:

- (1) must allow the Appellant an opportunity to speak for up to five minutes;
- (2) will allow any Councillor to ask the Appellant relevant questions for up to five minutes;
- (3) may hear from the administration;
- (4) will allow any Councillor to ask the administration relevant questions for up to five minutes;
- (5) may vote to allow any other persons (who claim to be affected by the Committee's decision) up to five minutes to speak;
- (6) will allow any Councillor to ask any of the other persons who claim to be affected relevant questions for up to five minutes after that speaker has spoken; and
- (7) must allow an opportunity for the Appellant to speak for up to five minutes to respond to any new information that has been presented at the hearing.
- (8) **Quorum** - two or more members of the Committee.

15. Decision of Committee

After hearing the appeal, the Committee may confirm, vary, substitute or cancel the Order.

16. Service of Decision

The Town must serve written notice of the Committee's decision by delivering it or sending it by mail to the Appellant, and the owner registered under the Land Titles Act.

17. Appeal to Court

Any persons who are affected by the Committee's decision may appeal to the Court of Queen's Bench as allowed under the Municipal Government Act. The appeal must be filed with the Court of Queen's Bench and served on the Town within 30 days after service of the Committee's decision.

Part VI - Repeal

18. Repeal

Bylaw #1393 , a Bylaw respecting Nuisances and Unsightly and Untidy Premises and all bylaws amending it are repealed.

Read a first time in Council this day of 2000 A.D.

Read a second time in Council this day of 2000 A.D.

Read a third time in Council and passed this day of 2000 A.D.

Larry Flexhaug, Town Coordinator

E. R. Patterson, Mayor

SCHEDULE “A”

**TOWN OF CLARESHOLM
PROVINCE OF ALBERTA
BYLAW #1406**

SCHEDULE “B”

**TOWN OF CLARESHOLM
PROVINCE OF ALBERTA
BYLAW #1406**

SCHEDULE “C”

**TOWN OF CLARESHOLM
PROVINCE OF ALBERTA
BYLAW #1406**

SCHEDULE “D”