

**VLLAGE OF MIDWAY
UNSIGHTLY PREMISES BYLAW NO. 295**

A Bylaw to prohibit the owners or occupiers of real property within the Village of Midway from allowing property to become untidy or unsightly and to require the owners or occupiers of real property, or their agents, to remove therefrom any accumulation of filth, discarded materials or rubbish of any kind.

WHEREAS the Municipal Act authorizes a local government to enact a bylaw to prohibit the owners of real property from allowing property to become untidy or unsightly by any accumulation of filth, discarded materials or rubbish of any kind;

AND WHEREAS the Council of the Village of Midway deems it to be advisable and expedient and in the best interests of all real property owners in the Village that such powers be exercised and that sufficient regulatory measures be enacted;

NOW THEREFORE the Council of the Village of Midway, in open and public meeting assembled, enacts as follows:

1. CITATION

This Bylaw may be cited as "Village of Midway Unsightly Premises Bylaw No. 295, 1998"

2. REPEAL

Village of Midway's "Control of Nuisances" Bylaw 13 is hereby repealed.

3. APPLICATION

This Bylaw shall apply to all lands within the boundaries of the Village of Midway.

4. INTERPRETATION

In this Bylaw, unless the context otherwise requires:

ACCUMULATION has its common dictionary meaning and includes a collection, mass or pile existing at the time of inspection.

COUNCIL means the Council of the Village of Midway.

DANGEROUS STRUCTURE means;

- (a) a building, fence, retaining wall, sidewalk, scaffolding, structure or other erection of any kind, or
- (b) an earth excavation in or on any real property or on a highway, that is in an unsafe condition and may be a danger to the public.

FENCE means a tight-board structure not more than 1.8m in height, constructed with dimensional lumber, painted or stained in a natural earth color and constructed to a standard approved by the Inspector.

HIGHWAY means a street, road, land, bridge, viaduct or any other way open to public use, but does not include a private right-of-way on private property.

INSPECTOR means the Bylaw Enforcement Officer as appointed by the Council of the Village of Midway or his/her designate.

NUISANCE includes the common dictionary meaning, and that used in the Municipal Act and includes a dangerous structure.

OCCUPIER means a person:

- (a) who is qualified to make an action for trespass; or
- (b) in possession of Crown land under a homestead entry or pre-emption record; or
- (c) in possession of Crown land or land owned by the municipality under a lease, license, agreement for sale, accepted application to purchase, easement, or other record from the Crown, municipality, or who simply occupies the land.

OWNER in respect of real property means the registered owner of an estate in fee simple, and includes:

- (a) the tenant for life under a registered life estate;
- (b) the registered holder of the last registered agreement for sale;
- (c) the holder or occupier of land held in the manner mentioned in Sections 356 and 357 of the Municipal Act.

PERSON includes a corporation, partnership or party, and the personal or other legal representative of a person to whom the context can apply according to law.

REAL PROPERTY means land, with or without improvements so affixed to the land as to in fact make them in fact and law a part of it.

RUBBISH means all garbage, trash, waste materials, discarded and broken materials, including containers, packages, bottles, cans or parts thereof or any abandoned articles, products or goods of manufacture and, without limiting the generality of the foregoing, includes all motor vehicles no longer in roadworthy condition and any parts thereof, which are in state of disrepair, wrecked or being dismantled for salvage or which are not licensed for the current year.

UNSIGHTLY PROPERTY includes real property that is in an unsightly state, and includes, but is not limited to, real property that contains;

- (a) the storage or accumulation of any rubbish that can be seen from a highway or an adjacent parcel of land;
- (b) the untidy storage of building or construction materials, where construction is not taking place, except where such materials cannot be seen from a highway or an adjacent parcel of land.

VILLAGE means the Village of Midway.

WATERCOURSE means a drain, ditch, pond, creek, lake, river or accumulation of surface water on or passing through real property.

5. **REGULATIONS**

- (a) No person shall discard, dump or throw rubbish on any real property or in any watercourse whether it be on public or private property except in a designated landfill area under permit from the Waste Management Branch, Ministry of Environment, Lands and Parks.
- (b) No person, owner or occupier of real property shall allow the real property to become or remain unsightly property, including but not limited to, by the accumulation of rubbish.
- (c) All persons are prohibited from causing, creating or permitting any nuisance to occur or to continue from or on any real property, watercourse or highway within the Village.
- (d) No person, owner or occupier of real property shall allow any building, structure or erection of any kind, or watercourse, or any other matter or thing, whether in or on private land or a highway, or in and about a building or structure, to become or remain a nuisance.
- (e) Owners or occupiers of real property within the Village are required, when the said real property is unsightly property or has a nuisance located on or in said real property, to remove all rubbish therefrom or to remove or correct the nuisance.

- (f) The Village may require the owners or occupiers of real property, or the agents or owners or occupiers of real property who have allowed rubbish of any kind to accumulate in or on the real property, to construct a fence, with the express purpose that rubbish may be stored behind the fence and not be visible from a highway or an adjacent property.

6. ENFORCEMENT

- (a) The Inspector may, at any reasonable time, enter upon any real property within the Village for the purpose of inspecting said property in order to ascertain whether or not the provisions of this Bylaw are being complied with.
- (b) Inspections of real property under this Bylaw by the Inspector may be initiated:
 - (i) at the request of Council; or
 - (ii) by complaints received by the Inspector pursuant to paragraph 6 (c) hereof.
- (c) Complaints regarding any alleged violation of this Bylaw must be made, in writing, to the Inspector who may, but is not obliged to, inspect the real property which is the subject of the complaint.
- (d) If the Inspector determines that any real property within the Village is unsightly property or has a nuisance on or in it, he/she shall advise the owner or occupier of the real property to:
 - (i) remove all rubbish from said property or to correct or remove any nuisance thereon within (30) days of the giving of notice; or
 - (ii) to erect a fence to the satisfaction of the Inspector, so that the unsightly property is not visible from any highway or adjacent property.
- (e) Any written notice to be given by the Inspector under the provisions of this Bylaw shall be deemed to be validly given if:
 - (i) delivered personally; or
 - (ii) mailed to the owner or occupier of the real property in question by return registered mail, and addressed to the said owner or occupier, in care of the ordinary postal address for such real property.
- (f) In the event the owner or occupier of real property cannot be contacted via return registered mail at the ordinary postal address for such real property, notice may be given to the owner or occupier of the real property by posting a copy of the order upon a building on the property or, in the case of vacant land, in a location visible from an adjacent highway.
- (g) If, after the expiry of thirty (30) days from the date of the notice given pursuant to this Bylaw, the unsightly property or nuisance has not been:
 - (i) corrected to the satisfaction of the Inspector; or
 - (ii) removed to the satisfaction of the Inspector, by the owner or occupier of the real property in question, it shall be lawful for the Village of Midway by its workers and others, to enter upon said property and effect the correction or removal of the condition by any means possible under the existing circumstances at the expense of the owner or occupier so defaulting, and the charges incurred by the Village for so doing, if unpaid on the 31st day of December in any year, shall be added to and form part of the taxes payable in respect of such real property as taxes in arrears.

7. APPEAL

Notwithstanding the foregoing provisions of this Bylaw, here the Inspector has given notice pursuant to this Bylaw, the owner or occupier of real property receiving such notice, shall have the right, within ten (10) days of the receipt of such notice, to appeal in writing to Council, and such owner or occupier of real property shall be entitled to appear before Council and to present evidence and call witnesses and on the conclusion of the appearance Council may rescind, vary or confirm the notice.

8. PENALTY

- (a) Every owner or occupier of real property who violates any provision of this Bylaw, or who refuses or neglects to observe or perform any duty or obligation created or imposed by this Bylaw, is guilty of an offence against this Bylaw and each day's continuance of the violation, refusal or neglect, constitutes a new and distinct offence.
- (b) Every owner or occupier of real property who, without lawful excuse, contravenes this Bylaw willingly doing any act which this Bylaw forbids, or omitting to do any act which this Bylaw requires to be done, is guilty of an offence and is liable upon summary conviction, to a fine of not less than One Hundred (100) Dollars and not more than One Thousand (1000) Dollars for the first offence and for each subsequent offence to a fine of not less than Two Hundred (200) Dollars and not more than Two Thousand (2000) Dollars, together with all Court costs, or in default thereof, to imprisonment for a period not exceeding six (6) months.
- (c) The penalties imposed under this Section of this Bylaw shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw.

9. EXEMPTIONS

Notwithstanding the other provisions of this Bylaw, the following shall be exempt from the provisions of this Bylaw:

- (a) discharges of plant and animal wastes emanating from traditional farming operations which are managed and applied in a reasonable manner as organic fertilizers to promote crop production and the accumulation of materials and equipment required for traditional farming operations; and
- (b) properties zoned for industrial use under the Village of Midway's Zoning Bylaw.

INTRODUCED this **20th** day of **April**, 1998.

READ A FIRST TIME this **20th** day of **April**, 1998.

READ A SECOND TIME this **20th** day of **April**, 1998.

READ A THIRD TIME this **20th** day of **April**, 1998.

I hereby certify the foregoing to be a true and correct copy of Bylaw No. 295 as "Village of Midway Unsightly Premises Bylaw No. 295, 1998.

R.J. Hatton, Administrator

NOTICED PUBLISHED as per Section 839(1) of the Municipal Act in the Boundary Times this 21st day of April, 1998, and also this 28th day of April, 1998.

RECONSIDERED AND ADOPTED this **4th** day of **May**, 1998.

J.G. McMynn, Mayor

R.J. Hatton, Administrator

I hereby certify that this is a true and correct copy of the Village of Midway's "Unsightly Premises Bylaw No. 295, 1998".

R.J. Hatton, Administrator