



THE RURAL MUNICIPALITY OF DAUPHIN

BY-LAW NO. 2952



Being a By-law for the purpose of Controlling Public Well Sites in the Rural Municipality of Dauphin and the Protection of Source Water from Contamination.

WHEREAS the Municipal act provides authority to Municipal Governments to pass by-laws for municipal purpose's as provided under section 232(1) of the Municipal Act.

- 232(1) A council may pass by-laws for municipal purposes respecting the following matters:
- (a) The safety, health, protection and well-being of people, and the safety and protection of property
 - (o) The enforcement of by-laws
- 236(1) Without limiting the generality of clause 232(1)(o)(enforcement of by-laws), a by-law passed under that clause may include provisions.
- (a) Providing for procedures, including inspections, for determining whether by-laws are being complied with; and
 - (b) Remediating contraventions of by-laws, including:
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - (iii) providing that an amount owing under subclause (ii) may be collected in any manner in which a tax may be collected or enforced under this act.
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv)
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.
- 242(1) If a designated officer finds that a person is contravening a by-law or this or any other Act that the municipality is authorized to enforce, the designated officer may by written order require the person responsible for the contravention to remedy it if, in the opinion of the officer, the circumstances so require.
- 242(2) The order may
- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
 - (c) state a time within which the person must comply with the directions; and
 - (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.
- Further content of order**
- 243(2) The order may
- (a) state a time within which the person must comply with the order; and
 - (b) state that if the person does not comply with the order within the specified time, the municipality will take the action or measure at the expense of the person.

AND WHEREAS it is deemed expedient to pass a by-law for the purpose of controlling public well sites in the Rural Municipality of Dauphin in order to protect source water from contamination.

NOW THEREFORE the Council of the Rural Municipality of Dauphin, in Council assembled, enacts the following procedures which shall govern the actions of those persons using the public water wells, along with the enforcement of contraventions to this by-law.

Part One
Definitions and Application

Definitions:

1. In this by-law:
 - (a) **"appeal committee"** means a committee comprised of all members of Council, excluding any members duly appointed as Designated Officers as recognized in 1 (d).
 - (b) **"chemical"** means any product which may be used as a herbicide, pesticide or fungicide.
 - (c) **"council"** means the council duly elected in the municipality.
 - (d) **"designated officer"** means the by-law enforcement officer, district weed supervisor, his or her assistant, Chief Administrative Officer or any other person appointed by council.
 - (e) **"district weed supervisor"** means a person duly appointed or hired as the district weed supervisor for the Dauphin Ochre weed district.
 - (f) **"municipality"** means the Rural Municipality of Dauphin.
 - (g) **"person"** means an individual, firm, partnership, or corporation and where the context requires shall include the plural as well as the singular.
 - (h) **"spray equipment"** means all sprayers, chemical handling and rinse equipment.
2. **Requirement:**

No person shall be allowed to bring chemical, or spraying equipment on to any public well sites in the municipality

Part Two
Investigation and Administration

Complaint:

3. Upon receipt of a written complaint and or pictorial evidence from any person (including the Designated Officer), the designated officer will investigate the complaint.

Contravention:

4.
 - (a) where the designated officer determines that a person is in contravention of this by-law a Notice of Violation will be issued; requesting compliance with the by-law (Per Schedule "A", attached and forming part of By-Law No. 2952).
 - (b) Where a person is determined by the designated officer to be in contravention of the by-law a second time, the designated officer shall issue an 2nd Offence Notice against the person (Per Schedule "B", attached an forming part of By-law No. 2952).

Appeals and Notice of Hearing

5. Any interested person may appeal a "2nd OFFENCE NOTICE" made by the designated officer, by filing with the Chief Administrative Officer of the municipality, within fourteen (14) days from the date of the "2nd OFFENCE NOTICE" substantially in the form attached as Schedule "C".

6. Upon receipt of an appeal in the required form, the following shall occur:
- (a) the Chief Administrative Officer of the Municipality shall cause a copy thereof to be forwarded to the Appeal committee of council, outlining the date, time and place for the hearing of the appeal, and serve notice of the same on the appellant in one or more of the following manners, no later than five (5) days prior to the appeal hearing date:
 - (i) personal service;
 - (ii) registered mail, at the last known address;
 - (iii) attaching same to a prominent place on the subject premises;
 - (b) The Appeal Committee, shall hear the appeal within forty days of the receipt of the appeal.
 - (c) The hearing may be adjourned from time to time as the appeal committee of council may decide
 - (d) If the appellant fails to appear at the hearing, the appeal shall be dismissed, and the "2nd OFFENCE NOTICE" automatically affirmed and the enforcement reinstated retroactive to the dates specified therein.
7. Within five (5) days after the Appeal Hearing, the appointed appeal committee of council shall decide and may:
- (a) confirm the order of the designated officer;
 - (b) vary the order of the designated officer in any respect; or
 - (c) substitute the order of the designated officer;
 - (d) cancel the order of the designated officer.
- The Appellant shall be notified by registered mail, of the decision of the board.
8. The Appeal Committee's decision is final on the issue and not subject to further appeal.

Penalties:

9. (a) Any person who contravenes or disobeys, or refuses or neglects to comply with any order made under this by-law is guilty of an offence and is liable on summary conviction, to a fine not exceeding five thousand dollars (\$5,000.00) and costs, or in the case of an individual, to imprisonment for a term not exceeding six (6) months, or to both such fine and such imprisonment.
- (b) Where a corporation commits an offence under this by-law, each director or officer of the corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offence or offences, is likewise guilty of the offence and is liable on summary conviction, to the penalties for which provision is made in section 5(a) above.

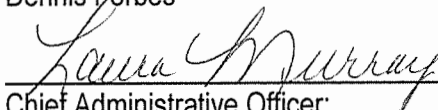
Repeals:

10. By-Law No. 2914 of the Rural Municipality of Dauphin be hereby repealed.

DONE AND PASSED by the Council of The Rural Municipality of Dauphin at its office in the said Municipality in the Province of Manitoba this 25th, Day of September, 2012.



Reeve:
Dennis Forbes



Chief Administrative Officer:
Laura Murray

Read a FIRST time this 11th, Day of September, 2012
 Read a SECOND time this 25th Day of September, 2012
 Read a THIRD time this 25th Day of September, 2012

For:
Dennis Forbes
Dennis Tokar
John DeWarle
Boris Michaleski
Wayne Telfer
Ron W. Hrehirchuk

Against:

Abstained:

Absent:
Jack Bremner



2nd OFFENCE NOTICE



SCHEDULE "B"

In accordance with the Rural Municipality of Dauphin By-law 2952, for the purpose controlling public well sites and the protection of source water from contamination.

Reference # _____

Date of 2nd & Final Notice: _____

Name and Address: _____

License Plate Number: _____

Acting upon By-Law No. 2952, the Designated Officer after issuing a Notice of Violation on _____ Investigated an additional complaint that you or persons under your direction, have contravened the aforementioned by-law, by allowing chemical, and or chemical handling equipment onto the public well site located in the Municipality at _____ and generally known as the _____ Well, for a 2nd time.

In accordance with Section 4(B) of By-Law No. 2952:

- The Notice of Violation with the by-law did constitute your FINAL WARNING.
- This contravention will result in a fine up to \$5,000.00.
- Attached is an Invoice in the amount of \$ _____.

In the event that you do not comply with this 2nd Offence Notice, the costs of the actions or measures taken by the Municipality to carry out the terms of the Schedules associated with this By-law issued by the Designated Officer are an amount owing to the Municipality. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.

You may appeal this 2nd Offence Notice in writing by filing with the Chief Administrative Officer of the Rural Municipality of Dauphin within fourteen (14) days of the date of this Notice, an objection substantially in the form attached to the by-law as Schedule "C", a copy of which is attached.

If you have any questions, please contact the Designated Officer at:

(204)

Respectfully,

Designated Officer
The Rural Municipality of Dauphin

- Attachments to Schedule "B":
- Copy of Notice of Violation
 - Copy of Notice of Objection Form
 - Copy of By-Law No. 2952



NOTICE OF VIOLATION



SCHEDULE "A"

In accordance with the Rural Municipality of Dauphin By-law 2952, for the purpose controlling public well sites and the protection of source water from contamination.

Reference # _____

Date of 1st Notice: _____

Name and Address: _____

License Plate Number: _____

Acting upon By-Law No. 2952, the Designated Officer after investigating the complaint that you or persons under your direction, have contravened the aforementioned by-law, by allowing chemical, and or chemical handling equipment onto the public well site located in the Municipality at _____ and generally known as the _____ Well.

In accordance with Section 4(A) of By-Law No. 2952:

"This Notice of Violation with the by-law constitutes your final warning. Any Future Contravention to this by-law will result in charges being laid, which could result in a fine up to \$5000.00."

Your co-operation in complying with this by-law for the protection of our water source would be appreciated.

Respectfully,

Designated Officer
The Rural Municipality of Dauphin



NOTICE OF OBJECTION

SCHEDULE "C"



In accordance with the Rural Municipality of Dauphin By-Law No. 2952 controlling public well sites and the protection of source water from contamination.

File Reference #: _____

IN THE MATTER OF By-Law No. 2952, being a By-Law of The Rural Municipality of Dauphin, controlling public well sites and the protection of source water from contamination.

TO: The Rural Municipality of Dauphin
Located on Highway 20A East
P.O. Box 574
Dauphin, Manitoba
R7N 2V4

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Appeal Committee of Council of the Rural Municipality of Dauphin regarding the 2nd Offence Notice issued, by the Designated Officer of the Rural Municipality of Dauphin, with the following specifications:

Date of 2nd Offence Notice: _____

Name and Title of Designated Officer, which Order was issued: _____

Specifically describe the nature of the 2nd Offence Notice and on which grounds you wish to appeal the said Notice:

DATED at Dauphin, Manitoba, this _____ Day of _____, 20____

Name of Appellant (Please Print):

Signature of Appellant

Address of Appellant

Contact Number