

BY-LAW NO. 2020-21

NUISANCES AND DERELICT, ABANDONED AND UNSIGHTLY PROPERTY

TITLE

This by-law may be referred to as "Nuisances and Derelict, Abandoned and Unsightly Property By-law".

PREAMBLE

- A. Whereas *The Municipal Act*, Chapter M225, Continuing Consolidation of the Statutes of Manitoba, provides in part as follows: ...

Spheres of jurisdiction

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, ...
- (b) subject to section 233, activities or things in or on private property, ...;
- (c) the enforcement of by-laws. ...

Exercising by-law-making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division ...

- (a) regulate or prohibit ...
- (b) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality ...

Content of by-laws under clause 232(1)(c)

233 A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provisions only in respect of

- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;

- (b) the parking and storing of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing;
- (c) the removal of top soil; and
- (d) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations. ...

Content of by-laws under clause 232(1)(o)

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) remedying contraventions of by-laws, including ...
 - (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), ...

Order to remedy contravention

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.

- B. It is deemed expedient to pass a By-law for the purpose of maintaining property and regulating and abating nuisances and derelict, abandoned and unsightly

property that are detrimental to the health, safety and comfort of the resident of the Rural Municipality of Riding Mountain West.

Now therefore the Council of the Rural Municipality of Riding Mountain West enacts as follows.

DEFINITIONS

1.

a. **Derelict Vehicle** means a vehicle that meets one or more of the following conditions:

- (1) is not in operating condition,
- (2) does not have attached thereto, and exposed thereon, one or more license plates with current vehicle registration stickers,
- (3) is kept in the open; and
- (4) the owner thereof either has abandoned it or is keeping it primarily for the purposes of salvaging or selling parts therefrom, or for the eventual sale thereof as scrap metal,

and derelict vehicle also includes the body or chassis of a used motor vehicle all or some of the parts of which have been removed, and to which clauses (2), (3), and (4) apply.

b. **Designated Officer** means an official appointed by Council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer.

c. **Rubbish** means any garbage, trash, or junk including, but not limited to unwanted or discarded household items, waste from building construction, remodelling and repair; tree branches, grass and shrub clippings, leaves or other general yard and garden waste; motor vehicle parts or tires; newspapers, magazines, packaging materials, waste paper or cardboard, dead animal carcasses, and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighbourhood aesthetics.

- d. **Unsafe Structure** means any structure, whether a building, fence, excavation or hole, which in the opinion of the designated officer is at risk of collapse or otherwise dangerous to public safety or property.
- e. **Unsightly Property** means a property which in the opinion of the designated officer is detrimental to the surrounding area due to a condition or conditions that could cause a property to be determined as dangerous or unsightly or unhealthy, including but not limited to property containing: ashes, junk, other rubbish or refuse; derelict vehicle(s), vessel, or item of equipment or machinery, or bodies or parts of such items; an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible materials, or the growth of grass or weeds to a length which is unsightly so that same becomes a nuisance to adjoining properties.

APPLICATION

- 2. This by-law applies to all property and to all owners and occupiers of property within the Rural Municipality of Riding Mountain West.

STANDARDS

- 3. No person being the registered owner of land within the Rural Municipality of Riding Mountain West, or the tenant under any commercial lease or residential tenancy agreement affecting such land shall keep such land free and clear of:
 - a. rubbish;
 - b. unsafe structures;
 - c. unsightly property;
 - d. derelict vehicle(s);
 - e. household appliances, whether or not the same are capable of operation;
 - f. the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a nuisance to adjoining properties;
 - g. the growth of grass to a length which in the opinion of the designated officer is unsightly; or
 - h. regular outdoor burning, the smoke or odour of which causes a nuisance to adjoining properties.

COMPLAINT

4. Any person may allege a violation of this by-law by filing a written complaint with the designated officer in such form and with such particulars as the designated officer may from time to time require.

INSPECTIONS

5. Upon receipt of a complaint, as aforesaid, the designated officer shall inspect all property alleged to be in violation of this by-law, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this by-law.

WARNINGS AND ORDERS

6. Where inspections reveal a violation of any provision of this by-law, the designated officer:
 - a. may in his or her discretion give written notice of the contravention to the owner and occupier of the property by regular mail substantially in the form attached as Schedule A.
 - b. if the contravention continues following the warning notice, if any, provided under subsection 6.0(a) above, or if in his or her discretion no such warning notice is provided, the designated officer shall issue a written order which shall:
 - (1) specify the time within which compliance shall be required;
 - (2) advise that should compliance not be effected within the specified time, the Municipality may undertake the remediation at the expense of the owner of the property and that such expense may be collected in the same manner that a tax may be collected or enforced under *The Municipal Act*;
 - (3) be substantially in the form attached as Schedule B;

APPEALS

7. Any interested person may appeal an order made by the designated officer by filing with the chief Administrative Officer of the Municipality at any time before

the time for compliance with such order an objection substantially in the form attached as Schedule C.

8. Upon receipt of an appeal in the required form, the Chief Administrative Officer of the Municipality shall cause a copy thereof to be forwarded to the Council forthwith and the Council shall entertain such appeal within forty days of receipt of same by holding a hearing. Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose. A notice of hearing shall be issued by Council and shall be served upon the persons and in the manner specified in Section 10 below no later than 5 days prior to the appeal hearing.
9. The Council shall determine an appeal within 5 days of a hearing and shall serve a notice of disposition forthwith upon determination, upon the interested persons. The Council may:
 - a. confirm the order of the designated officer;
 - b. vary the order of the designated officer in any respect; or
 - c. set aside the order of the designated officer.

SERVICE OF NOTICES OR ORDERS

10. Any order issued by the designated officer under subsection 6(b) and a notice of hearing issued under section 8 of this by-law shall be served by personal service or by registered mail upon:
 - a. the owner;
 - b. the occupier, if any; and
 - c. in respect to any order alleging a violation of subsection 3(b) (unsafe structures), the mortgagee, if any;of the property effected by order.
11. Service made personally shall be deemed to have been made on the date of such service and service made by registered mail shall be deemed to have been made 3 days after posting. In the case of service upon an occupier, the address for mailing shall be the address of the property. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the Municipality. In the case of a mortgagee, the address for mailing shall be as shown according to the records of the Land Titles Office for the area within which the property is situated.

ENFORCEMENT

12. The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality by the owner of the property. 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.
13. Any person who contravenes or disobeys, or refuses or neglects to obey or 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 \$1,000, or in the case of an individual, to imprisonment for a term not exceeding six months, or to both such a fine and such an imprisonment.
14. 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 13 above.
15. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.

REPEAL

16. This By-law repeals
 - a. Rural Municipality of Silver Creek By-law No. 11-04, dated 8 July 2014
 - b. Rural Municipality of Shellmouth-Boulton By-law No. 0012, dated 11 October 2000.

And that this By-Law shall come into full force and effect on the day following its' final passage.

DONE AND PASSED in Council assembled in Inglis, Manitoba this 23rd day of December 2020.


Reeve


Chief Administrative Officer

Read a first time this 9th day of December 2020.

Read a second time this 9th day of December 2020.

Read a third and final time this 23rd day of December 2020.

SCHEDULE A

File: _____

Date: _____

Name: _____

Address: _____

Postal Code: _____

Dear _____

Re: Rural Municipality of Riding Mountain West Nuisances and Derelict, Abandoned and Unsightly Property By-Law No. 2020-21 (The "By-law")

Acting upon a written complaint, the designated officer had cause to inspect your property at _____ in the Rural Municipality of Riding Mountain West.

Upon inspection of the property, it is apparent that a violation exists in accordance with the the By-law due to

Therefore, the Municipality request that you rectify the situation by

on or before _____.

In accordance with Section 239(1) of the Municipal Act, I will enter onto the property on (date) _____ to conduct a second inspection. If there has been no compliance with this notice, an Order may be issued authorizing the Municipality to take actions or measures necessary to bring the property into compliance with the By-law and the costs of such actions or measures are an amount owing to the Municipality by the owner of the property. 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.

Your cooperation and assistance in this matter is appreciated.

If you have any questions, please contact the writer at _____.

Sincerely,

Designated Officer

SCHEDULE B

File: _____

Date: _____

Name: _____

Address: _____

Postal Code: _____

Dear _____

Re: Unsightly/Unsafe Property at _____

Further to my letter of _____, this is to advise you that an [a second] inspection of your property at _____ conducted on _____ found that it is [continues to be] in violation of the Rural Municipality of Riding Mountain West Nuisances and Derelict, Abandoned and Unsightly Property By-law No. 2020-21 (the "By-law").

Specifically, there is _____ on your property which to date has not been removed.

Under the authority of Section 242(1) of The Municipal Act, you are hereby ordered to _____ on or before _____. In the event that you do not comply with this order, please note that section 12 of the By-law provides as follows:

12. The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality by the owner of the property. 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 order in writing by filing with the Chief Administrative Officer of the Municipality at any time before the time for compliance with this order has elapsed an objection substantially in the form attached to the By-law as Schedule C.

I trust you will govern yourself accordingly.

Sincerely,

Designated Officer

SCHEDULE C

IN THE MATTER of the Nuisances and Derelict, Abandoned and Unsightly Property By-law No. 2020-21 of the Rural Municipality of Riding Mountain West

NOTICE OF OBJECTION

To: The Rural Municipality of Riding Mountain West

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural

Municipality of Riding Mountain West from the Order to _____
(name of remedy or repair)

made by _____ on the _____ day of _____, 20_____
(name and title)

respecting the premises known as _____.

Dated at _____, Manitoba, this _____ day of _____, 20_____.

Signature of Appellant

Print name of Appellant

Address