

THE RURAL MUNICIPALITY OF THOMPSON

UNSIGHTLY PROPERTY BY-LAW

BY-LAW NO. 7/15

Being a by-law of the Rural Municipality of Thompson to maintain property and to regulate nuisances, derelict, abandoned and unsightly property

WHEREAS Section 232 of the Municipal Act provides, in part , as follows:

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

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

- (a) regulate or prohibit;
- (d) 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

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 council are or could become a nuisance, which may included noise, weeds, odors, unsightly property, fumes and vibrations.

AND WHEREAS Section 236 of the Municipal Act, provides in part as follows:

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
 - (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, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to the enforcing of the by-law
 - (iii) providing that amount owing under sub clause (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 sub clause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment of fines.

AND WHEREAS Sections 239-249 of the Municipal Act, provide for the enforcement of by-laws:

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;
- (b) direct a person to take any action or measure necessary to remedy the contravention of the act or by-law, including removal or demolition of a structure that has been erected in contravention of a by-law and, if necessary, to prevent a reoccurrence of the contravention;
- (c) state a time within which the person must comply with the directions; and
- (d) state 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.

243(1) If in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, or because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order

- (a) in the case of a structure, require the owner
 - (i) to eliminate the danger to public safety in the manner specified, or
 - (ii) remove or demolish the structure and level the site;
- (b) in the case of land that contains the excavation or hole, require the owner
 - (i) to eliminate the danger to public safety in the manner specified, or
 - (ii) fill in the excavation or hole and level the site;
- (c) in the case of property that is in unsightly condition, require the owner
 - (i) to improve the appearance of the property in the manner specified, or
 - (ii) if the property is a building or other structure, remove or demolish the structure and level the site.

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.

244(1) A person who receives a written order under section 242 or 243 may request council to review the order by written notice within 14 days after the date the order is received.

244(2) After reviewing the order, the council may confirm, vary, substitute or cancel the order.

AND WHEREAS The Municipal Act, C.C.S.M. c. M225, Regulation 50/97 3 reads as follows:

For the purpose of sub clause 236(1)(b)(ii) of the Act, the maximum fine that a council may impose in respect of a contravention of a by-law is \$1000.

AND WHEREAS the definitions pertaining to this by-law are:

- (a) **"By-law Enforcement Officer"** means the designated Officer in charge of By-Law Enforcement for the Rural Municipality of Thompson.
- (b) **"CAO"** means the Chief Administrative Officer of the Municipality or his/her designate
- (c) **"Council"** means the council duly elected in the Municipality.
- (d) **"Derelict Vehicle"** means a vehicle that does not fall into one of the following categories:
 - (i) is duly registered under the Highway Traffic Act
 - (ii) is capable of being duly registered under the Highway Traffic Act and the person who is the owner thereof possesses an "inspection certificate" as prescribed under the Highway Traffic Act
 - (iii) the vehicle has storage insurance placed thereon with the Manitoba Public Insurance Corporation insuring the value of the vehicle
 - (iv) is located within the Rural Municipality of Thompson including the communities of Miami and Rosebank
 - (v) is located solely within the communities of Miami and Rosebank in which the primary use of the property is for commercial activity as determined and authorized by Council
 - (vi) is totally covered with the exception of the tires by a tarp or other suitable cover
- (e) **"Designated Officer"** means a any-law enforcement officer or other 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.
- (f) **"Emergency"** means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demand immediate action.
- (g) **"Emergency work"** means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency
- (h) **"Interested Person"** means the owner, director, occupier or mortgagee of property which is the subject of an order made under authority of this by-law.
- (i) **"Mortgagee"** in the case of any property means any person holding a registered real property mortgage against the property according to the records of the land titles office for the area within which the property is situated.
- (j) **"motor vehicle"** means a vehicle not run upon rails, that is designed to be self Propelled and includes a vehicle that may or may not be capable of being registered under the Highway Traffic Act or the Off Road Vehicles Act and includes a snow vehicle, an off road vehicle, motorcycle, motor scooters, race cars and competition vehicles but does not include a farm tractor, implement of husbandry, a power assisted bicycle or a special mobile machine
- (k) **"Municipality"** means the Rural Municipality of Thompson.
- (l) **"noise nuisance"** means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and /or safety of any reasonable person as determined by an officer.
- (m) **"Occupier"** in the case of any property means any person in actual or constructive possession of the property pursuant to a lease, tenancy license or other right to occupy.
- (n) **"Officer"** means any member of the Royal Canadian Mounted Police and any other police officer, police constable peace officer or other person appointed and employed by the Rural Municipality of Thompson for preservation and maintenance of the public peace
- (o) **"Owner"** in the case of any property means the registered owner of the property according to the current assessment records of the Municipality.

(p) **"Park"** means to cause the vehicle to remain motionless in one place whether occupied or not

(q) **"Person"** means an individual, firm, partnership, association, corporation, company or group of persons and where the context requires shall include the plural as well as the singular.

(r) **"Property"** means any land as defined in the Municipal Assessment Act within the Municipality whether or not there is situated thereon a dwelling house or any other building.

(s) **"Premises"** means a building or buildings including the associated land.

(t) **"Recreational Vehicle"** is designed and constructed as an integral unit to provide living accommodation and is equipped with one or more beds and, and a stove or refrigerator, or washing and toilet facilities. These vehicles include, but are not limited to a motor home, travel trailer, fifth wheel trailer, toy hauler, popup trailer, and slide in camper.

(u) **"special mobile machine"** means

- (i) a vehicle other than a dump truck used for construction and repair and is only minimally operated upon a highway
- (ii) is operated on behalf of the Municipality that has authority and jurisdiction for the purpose of sweeping, grading, scraping, ploughing, cleaning snow or otherwise maintaining property within the Rural Municipality of Thompson
- (iii) is insured by a policy of liability as prescribed in the drivers and vehicles Act

(v) **"rubbish"** means any garbage, trash, or junk including, but not limited to unwanted or discarded household items, waste from building construction, remodeling 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 neighborhood aesthetics.

(w) **"Store"** means to keep or allow to be kept

(x) **"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.

(y) **"unsightly property"** means a property which in the opinion of the designated officer is detrimental to the surrounding area, including but not limited to the growth of grass to a length which is unsightly or the growth of weeds so that same become a nuisance to adjoining properties.

(z) **"Vehicle"** means a device in, upon, or by which a person may be transported or drawn upon a highway but does not include:

- (i) a device designed to be moved solely by human muscular power or used exclusively upon stationary rails or tracks, or
- (ii) a motorized mobility aid

AND WHEREAS 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 residents of the Rural Municipality of Thompson.

NOW THEREFORE the Council of the Rural Municipality of Thompson, duly assembled, enact as follows:

Standards

1. No owner or occupier of property within the Rural Municipality of Thompson shall permit on such property:
 - (a) rubbish;
 - (b) unsafe structure(s);
 - (c) unsightly property
 - (d) the storage of motor vehicles, and or recreational vehicles which are not registered under the Highway Traffic Act or the Off-Road Vehicles Act, unless the said property and/or structures are lawfully used and licensed or approved by Council as a commercial automobile dealership or vehicle repair facility;
 - (e) the storage of household appliances, whether or not 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 of which causes a nuisance to adjoining properties
 - (i) any contravention of any other property standards that effect the health, safety, protection, well being of people and the safety and protection of property and because of its unsightly condition is detrimental to the surrounding area, that may be specified by way of any schedule, that may be attached to this by-law and amended from time to time
 - (j) in excess of six (6) vehicles, whether registered or not on any residential property within the urban communities of Miami and Rosebank but shall not include short term visitor or special occasion parking
 - (k) parking on any part of any residential property within the urban communities of Miami and Rosebank that is not normally designed for and used as a parking space

Provisions: The Council for the Rural Municipality of Thompson may grant any person or corporation permission for the storage of unregistered /derelict motor vehicles on residential properties within the urban communities of Miami and Rosebank. Such permission shall only be granted for a maximum of two unregistered/ derelict vehicles on any such property upon receipt of a letter of permission granted to the registered owner from the Municipal Office.

Permission shall not be granted to keep derelict/ unregistered vehicle for a period in excess of two (2) years.

The storage of such vehicles that are permitted to be kept on residential urban residential properties in the Communities of Miami and Rosebank must be stored in a manner as prescribed by this By-Law or as otherwise prescribed by the By-Law Enforcement Officer.

Any derelict/unregistered vehicle that permission to store has been granted by the Council for the Rural Municipality of Thompson must be totally covered with the exception of the tires thereof by a tarp or other suitable cover that is securely fastened so as to prevent it blowing off in inclement weather conditions.

Exceptions: This by-law shall not apply to property owned or under the control of the Rural Municipality of Thompson.

Complaint

2.
 - (a) any Designated Officer of the Municipality may determine a violation of this by-law; or
 - (b) any person may allege a violation of the by-law by making a complaint with the Designated Officer or Municipal Office in such form and with such particulars as the Designated Officer may from time to time require.

Inspection

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

Warnings, Orders and Notices

4. Where inspections reveal a violation of any provision of this by-law, the designated officer;
 - (a) Shall give written notice of the contravention and required remedy to the owner and occupier of the property by regular mail or personal visit.
 - (b) If contraventions continue following the written notice of contravention the designated officer shall issue a written order substantially in the form attached as schedule A which shall:
 - i. Describe the contravention, the required remedy and specify the time with which compliance shall be required.
 - ii. Advise that should compliance not be effected within the specified time:
 - (a) the Municipality may undertake the remediation at the expense of the owner of the property; and
 - (b) a penalty may be charged for each 30 days until compliance or remediation; and
 - (c) that such expenses may be collected in the same manner that tax may be collected or enforced under The Municipal Act;
 - (d) advise of the appeal process
 - (e) where the contravention has not been remedied within the time specified in the notice referred to in paragraph 4 (b), enter upon the property to remedy the said contravention and such expense and costs, in addition to all other rights of collection in which the Rural Municipality of Thompson may have at law, such amounts may be collected in the same manner that tax may be collected or enforced under the Municipal Act.

Appeals

5. THAT any owner and /or occupier may appeal an order made by a designated officer by filing written notice with the Chief Administrative Officer of the Municipality, or in their absence, their designate, within fourteen (14) days after the date of the order is received.
6. THAT the council may; confirm, vary, substitute or cancel the order of the designated officer.

Service of Notices or Orders

7. Any order, fine or penalty issued by the designated officer under this by-law shall be served by personal service or by registered mail upon:
 - (a) the owner
 - (b) the occupier, if any; andService by registered mail shall be conclusively deemed to have been served on the owner/occupier five (5) days after it is mailed.
8. A copy of said notice or order must be filed by the designated officer at the Municipal Office within five (5) business days of serving or mailing said notice and /or order

Fines

9. Any person in contravention of this by-law who does not comply with a written order from the designated officer is subject to the following fines:
 - (a) **1st offence - \$100.00**
 - (b) **2nd offence- \$300.00** for contravention of this by-law, by the same property owner/occupier and within one year of the 1st offence
 - (c) **3rd and subsequent offence - \$500.00** for contravention of this by-law, by the same property owner / occupier and within one year of the second offence

10. 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 that it continues.

Additional Penalties

11. Any person in contravention of this by-law who does not comply with the deadline of a written order from the designated officer is subject to the following penalties:

(a) **A penalty of \$100.00 for each 30 days or portion thereof** after the order deadline, until such a time as the property is brought into compliance with the order or the Municipality takes action.

12. That the Rural Municipality of Thompson's By Law 12/97 sections 2 to 5 be repealed upon the passing of this by-law.

DONE AND PASSED as a by-law in council duly assembled in the Rural Municipality of Thompson, in the Village of Miami, Manitoba this 8th day of October 2015 A.D.



Reeve



Chief Administrative Officer

Read the first time this 27th day of August 2015 A.D.

Read a second time this 27th day of August 2015 A.D.

Read a third time this 8th day of October 2015 A.D.

SCHEDULE "A"

ORDER

To:

Address:

Legal description of property: _____

Civic address: _____

RE: RURAL MUNICIPALITY OF THOMPSON UNSIGHTLY PROPERTY BY-LAW

I, _____, as the Designated Officer of the Rural Municipality of Thompson, upon inspection, have determined that your property does not comply with the Rural Municipality of Thompson By-Law No. 7/15

The following deficiencies are noted on the property commonly known as: _____

- 1) _____
- 2) _____
- 3) _____

**YOU ARE HEREBY ORDERED TO RECTIFY THE NOTE DEFICIENCIES/CONTRAVENTIONS BY COMPLETING THE FOLLOWING ACTION/S NO LATER THAN _____ P.M./A.M. ON _____ 20_____
AT THE PROPERTY KNOWN AS _____**

IN (circle one) The Village of Miami The Hamlet of Rosebank The Rural Municipality of Thompson

- 1) _____
- 2) _____
- 3) _____

NOTICE: If you do not comply with this Order within the time limits set above, the Rural Municipality of Thompson may exercise its authority pursuant to S. 242(b) of the Municipal Act to enter your property and complete the required works. The cost of performing such works will, by statute, become a debt owing by you to the Rural Municipality of Thompson.

FINE:

If you do not comply with this Order within the time set above, the property will also be subject to the following fines:

1 st Offence	\$100.0
2 nd Offence	\$200.00
3 rd and Subsequent Offence	\$ 500.00 (and any costs to remedy the contraventions)

Where the contraventions/s, refusal, neglect, omission, or failure to comply continues for more than one day, the person or corporation is guilty of a separate offence for each day that it continues.

Additional penalties of \$100.00 for each 30 days or portion thereof after the order deadline will be charged, until the property is in compliance with the Order or the Municipality takes action.

APPEAL: Pursuant to S. 244(1) of the Municipal Act, you have the right to appeal to the Council of the Rural Municipality of Thompson within fourteen (14) days of the receipt of this ORDER. The Council of the Rural Municipality of Thompson has the authority to confirm, vary, substitute or cancel this ORDER. **AN APPEAL TO COUNCIL MUST BE A WRITTEN NOTICE delivered to the Rural Municipality of Thompson Municipal Office P.O. Box 190 Miami, Manitoba R0G 1H0**

Dated at _____ in the Province of Manitoba this _____ of _____ A.D. 20____

Designated Officer/ By-Law Enforcement Officer