

Rural Municipality of Oakview
By-Law No. 2019-5

BEING A BY-LAW OF THE R.M. OF OAKVIEW TO REVISE AND UPDATE THE MAINTENANCE OF PROPERTY AND TO REGULATE NUISANCES, DERELICT, ABANDONED AND UNSIGHTLY PROPERTY.

WHEREAS 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;
- (c) subject to Section 233, activities or things in or on private property;
- (o) 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 the Council are or could become a nuisance, which may include noise, weeds, odors, unsightly property, fumes and vibrations.”

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...;
 - (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 non-payment of fines.”

242(1) “If a Designated Officer finds a person is contravening a by-law that the municipality is authorized to enforce, such 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...;
- (b) direct a person to take any action or measure necessary to remedy the contravention of the Act or by-law, including the removal or demolition of a structure that has been erected or placed 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 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”.

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 an 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 the council to review the order by written notice within 14 days after the date the order is received, or such longer period as a by-law specifies.”

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

Section 1 - Definitions and Interpretations

“**Appliances**” means fridges, stoves, washers and dryers, freezers, hot water tanks, furnaces, etc. and includes parts thereof.

“**Building**” means any structure that has been used or is intended to be used to support or shelter any use or occupancy.

“**Council**” means the Council of the RM of Oakview charged with the responsibility of making and enforcing by-laws.

“**Derelict Vehicle**” means any motor vehicle that is rusted, partially scrapped or wrecked or dismantled to the extent that it is not road-worthy, inoperable or stored for scrapping.

“**Derelict and abandoned building**” means a dilapidated or derelict building that has been abandoned by the owner (or where the owner cannot be found); a structure or building that is in gross neglect, structurally unsafe and has not been maintained to accommodate occupancy.

“**Designated Officer**” means a building inspector, employee of Commissionaires Manitoba 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 of the RM of Oakview and any employee of the R.M. of Oakview to whom he or she has delegated an authority or duly granted or imposed under this By-Law.

“**Emergency abatement**” means to take immediate action to secure a vacant building.

“**Garbage or rubbish**” means and includes any garbage or rubbish, scrap wood, scrap metal, 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/refuse which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of the Municipalities standards of cleanliness or generally accepted neighborhood aesthetics.

“**Municipality**” means the Rural Municipality of Oakview.

“**Owner**” includes a person responsible for real property and any person; includes owner, part-owner, and property manager and/or property management companies.

“**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.

“**Residential building**” means a building that has been designed for or has been used for residential occupancy.

“**Store**” means to keep or allow to be kept.

“**Unsightly property**” means a property that 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 some become a nuisance to adjoining properties; a property that lacks maintenance and is in a state of neglect.

“**Unsightly 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 the public safety or property.

“**Vacant**” means a building that is not being used or occupied for a protracted period.

“**Vehicles**” shall have the meaning ascribed to that term in *The Highway Traffic Act* and amendments thereto and shall include all terrain vehicles, watercraft, aircraft, trailer, wagon, flatbed, farm implement, tractor or any other means of transportation and any parts of any vehicle exceeding 18” in length.

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 in the RM of Oakview;

NOW THEREFORE the Council of the RM of Oakview in open Council duly assembled enacts as follows:

STANDARDS

Section 2.1 - Responsibility of Property Owner

1. That no owner shall cause, allow or permit the following:
 - a. Accumulation of garbage or items of refuse on any property
 - b. The presence of any Derelict Vehicles
 - c. Unsightly conditions that causes a nuisance
 - d. The storage of indoor appliances, junk or scrap on any residential property yard, for scrapping and/or repair
 - e. Derelict and abandoned buildings or structures that represents urban blight
 - f. Dangerous structures buildings or structures that represents urban blight
 - g. Dangerous structures or conditions that may cause a fire or harm to person or animals
 - h. Excavation holes that are not secured and may pose danger
 - i. Trees that are destabilized or structurally compromised or trees with a pest infection that may cause damage or injury to life or property
 - j. Long grass and noxious weeds that causes unsightly conditions
 - k. Regular outdoor burning, the smoke of which causes a nuisance to adjoining properties

Section 2.2 - Storage of Vehicles on Property - Prohibitions

Except as provided in Section 2.3, No owner shall store, keep or park vehicles capable of being registered under *The Highway Traffic Act* that are not registered unless the said property is licensed as a Commercial Automobile Dealership.

Section 2.3 - Exceptions

1. The following vehicles are allowed to be stored on property:
 - a. Two unregistered vehicles are allowed to be stored at the back of the property, provided that they are properly covered and secured from public view
 - b. That the said vehicles stored are not derelict but are in good road worthy condition, free from rodents and are not stored in long grass and noxious weeds
 - c. This By-Law shall not apply to property owned or under control of the RM of Oakview

Section 3 - General Enforcement

1. **THAT if**, in the opinion of the Designated Officer, a structure, garbage accumulation in a yard, the presence of a derelict vehicle, an excavation or hole; or if the property is unsightly or detrimental to the surrounding area, the Designated Officer may, by written **Order require the owner to:**
 - a. Attend for property inspection, improve the appearance of the property in the manner specified in the written order, or remove a Derelict Vehicle
 - b. If the property is a derelict building or unsafe structure, remove or demolish the building or structure and level the site

Section 4 - Duty to Provide

1. A requirement to report or provide information under this By-Law applies even if:
 - a. It requires the disclosure of personal information
 - b. It requires the disclosure of proprietary information or confidential information
 - c. Disclosure of the information is restricted by legislation or otherwise

Section 5 - Inspections

Upon receipt of a complaint, as aforesaid, the Designated Officer shall inspect property alleged to be in violation of the By-Law, in such a manner as shall be reasonable necessary in order to determine whether or not there has been a violation of this By-Law.

The Designated Officer may, on his/her own initiative, inspect any property in the Municipality, 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.

Section 6 - Orders

1. **WHEREAS** inspections reveal a violation of any provision of this By-Law, the Designated Officer shall issue a written order to the owner of the property which shall:
 - a. Describe the contravention and the required remedy
 - b. Advise of the process of the appeal
2. **THAT** the written order issued by the Designated Officer shall state a time within which the owner must comply with the order and state that if the order is not complied with within the specified time, the Municipality will take the action or measure at the expense of the owner; and such expenses may be collected in the same manner that tax may be collected or enforced under The Municipal Act.
3. **THAT** the written order issued by the Designated Officer shall be served on the owner of the property, either personally or by mailing it by registered mail to the last address for that owner recorded on the Municipality's tax rolls; in the event service is carried out by registered mail, it shall be conclusively deemed to have been served on the owner five (5) days after it is mailed.
 - a. A copy of the order must be filed by the Designated Officer at the Municipal Office either in person, by mail, fax or email within five (5) business days of serving or mailing said order.

Section 7 - Appeal Process

1. **THAT** any owner aggrieved by an order issued by the Designated Officer under this By-Law may, before the compliance date of the order, appeal to the Council.
2. **THAT** Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
3. **THAT** upon the hearing of an appeal, the Council may:
 - (a) uphold, rescind, suspend or modify the order issued by the Designated Officer;
 - (b) extend the time within which compliance with the order shall be made; or
 - (c) make such other decision or order as in the circumstances of each case it deems just, and the decision or order of the Council, upon being communicated to the appellant, shall stand in place of the order against which the appeal is made.

Section 8 - Removal of Vehicles

In addition to the issue of an order, any vehicle kept or stored in contravention of this By-Law may be removed from the property, towed, impounded and/or stored by the Municipality. The Municipality shall be entitled to charge for costs and charges incurred for towing, impounding, storing, destroying or otherwise disposing of such vehicle(s). Said costs and charges may be recovered in a similar manner as taxes or a debt, or both at the option of the Municipality.

Section 9 - Destruction of Vehicles

Any vehicle removed from property by the Municipality pursuant to this By-Law may be destroyed or sold at any time fourteen (14) days from the date of removal of the vehicle from the property. In the event that such vehicle is sold, the Municipality shall be entitled to recover from the sale price all fees and charges permitted hereunder. In the event that the sale proceeds shall exceed the aggregate of all fees and charges, any remainder shall form part of the general revenue of the Municipality.

Section 10 - Redemption of Vehicle

A vehicle removed pursuant to this By-Law may be released to the owner therefore, or to the owner, occupant or person in charge or control of the property from which the vehicle was removed, upon payment in full of all fees prescribed in this By-Law within fourteen (14) days of the removal of the vehicle.

Section 11 - No Obstruction

No person shall interfere, resist, hinder, make a false or misleading statement to or otherwise obstruct a Designated Officer, or any person who is authorized under the By-Law to carry out any authorized action in the performance of his or her duties.

Section 12 - Costs

- 1. **THAT** 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 and may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.

Repeal

- 1. **THAT** By-Law No. 2019-2 be hereby repealed.

DONE AND PASSED by Council of the RM of Oakview in regular session assembled this 25th day of June A.D. 2019.

THE RM OF OAKVIEW

Original signed by Brent Fortune

REEVE

Original signed by Diane Kuculym

CHIEF ADMINISTRATIVE OFFICER

Read a first time this 11th day of June, A.D. 2019.
Read a second time this 25th day of June, A.D. 2019.
Read a third time this 25th day of June, A.D. 2019.