

THE RURAL MUNICIPALITY OF PRAIRIE LAKES

BY-LAW NO. 7, 2018

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF PRAIRIE LAKES TO AMMEND BYLAW 34, 2015, RESPECTING UNSIGHTLY PROPERTIES AND DERELICT VEHICLES WITHIN THE MUNICIPALITY.

WHEREAS Section 232 and 233 of *The Municipal Act* provides authority to a Municipality to pass by-laws respecting the safety, health, protection and well-being of people, and the safety and protection of property, activities or things in or on private property (including the requirement that land and improvements be kept and maintained in a safe and clean condition; the parking and storing of vehicles, including the number and type of vehicles that may be kept and stored and the manner of parking and storing, and activities or things that, in the opinion of Council, are or could become unsightly) and the enforcement of such by-laws;

AND WHEREAS Sections 236, 242 and 243 provide for the enforcement of theses by-laws;

AND WHEREAS the Rural Municipality of Prairie Lakes deems it necessary to pass a By-Law for the purpose of prohibiting and rectifying unsightly property and derelict vehicles;

NOW THEREFORE the Council of the Rural Municipality of Prairie Lakes, in open Council assembled, enacts as follows:

1. Definitions

- a) "council" means the council duly elected in the Rural Municipality of Prairie Lakes;
- b) "Derelict Vehicle": means and includes an unused vehicle that is:
 - a. Not in operational condition;
 - b. Cannot operate on the public road due to its present condition and state;
 - c. Kept in the open for extended period days;
 - d. Owner has abandoned same;
 - e. Partially wrecked, dismantled or damaged and cannot be registered under the HWY Traffic Act for road usage;
 - f. Derelict vehicle includes, the body, chassis, or some part of the vehicle which has been removed or altered.
- c) "designated officer" means a building inspector or by-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;
- d) "interested person" means the owner, occupier or mortgagee of property which is the subject of an order made under the authority of this by-law;
- e) "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
- f) "Municipality" means the Rural Municipality of Prairie Lakes;
- g) "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;
- h) "owner" in the case of any property means the registered owner of the property according to the current assessment records of the Municipality;
- i) "person" means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular;
- j) "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;
- k) "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;

(l) "store" means to keep or allow to be kept;

m) "unregistered vehicle" means a motor vehicle or trailer which in order to be lawfully driven on a highway must be registered under *The Highway Traffic Act*, but which motor vehicle or trailer has not been validly registered under that Act within the immediately preceding 30 days, and includes motors, transmissions, assembly systems, chassis, and body or any other parts longer than one foot in dimension;

n) "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;

o) "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.

2. Application

This by-law applies to all property and to all owners and occupiers of property within the Rural Municipality of Prairie Lakes.

3. Standards

No owner or occupier of property shall permit on such property, and each owner and occupier of property shall keep such property free and clear of:

(a) rubbish;

(b) unsafe structure(s);

(c) unsightly property;

(d) the storage of unregistered motor vehicle(s) which are not registered under *The Highway Traffic Act* or *The Off-Road Vehicle Act*, unless the said property and/or structures are lawfully used and licensed as a commercial automobile dealership;

(e) the storage of 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 of which causes a nuisance to adjoining properties.

(i) Derelict Vehicles

4. Complaint

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.

5. Inspections

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

- (a) The inspector shall first give reasonable notice to the owner or occupier of the property in writing and stating a date and time for the inspection which shall not be less than forty-eight (48) hours from the date that the notice is delivered to the owner or occupier of the property to be inspected. In the event that the owner or occupier refuses to accept delivery of the notice, or cannot be located, reasonable notice shall be deemed to have been given provided that the Designated Officer posts a copy of the notice by nailing it to the door, or posting a sign at any normally used entrance to the land, building or structure to be entered by the Designated Officer to carry out the inspection, remedy, enforcement or action.

6. Warnings and orders

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(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:

- (i) specify the time within which compliance shall be required;
- (ii) 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*;
- (iii) advise of the process of appeal;
- (iv) be substantially in the form attached as “Schedule B”;

7. Appeals

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”.

7.1. 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 8. below no later than 5 days prior to the appeal hearing.

7.2. The council shall determine an appeal within 5 days of a hearing and shall serve a notice of disposition, substantially in the form attached as “Schedule D”, 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.

8. Service of Notices or Orders

8.1. Any order issued by the designated officer under subsection 6(b), a notice of hearing issued under section 7.1. or a notice of disposition under section 7.2. hereof 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.

8.2. 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 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.

9. Enforcement

The costs of actions or measures taken 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*.

10. Penalties

10.1. 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 offense and is liable to a fine in accordance with the penalties specified in "Schedule E" of this By-Law, and on summary conviction, to a fine not exceeding \$1000, or in the case of an individual, to imprisonment for a term not exceeding six (6) months, or to both such a fine and such an imprisonment.

10.2. Where a corporation commits an offense 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 offense or offences, is likewise guilty of the offense and is liable to a fine in accordance with the fines specified in section 10.0. above.

10.3. 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.

11. Coming Into Force

This By-Law shall come into full force and effect on the day after being passed by Council, and By-Law 34, 2015 shall be repealed on such day.

DONE AND PASSED in Council assembled in the Council Chambers of the Rural Municipality of Prairie Lakes, at Belmont in the Province of Manitoba, this 12th day of September, A.D. 2018.

Reeve.

Chief Administrative Officer.

READ a first time: *August 22nd, 2018*

READ a second time: *August 22nd, 2018*

READ a third time: *September 12th, 2018*

SCHEDULE A TO BY-LAW NO. 7, 2018
RURAL MUNICIPALITY OF PRAIRIE LAKES

Date: _____, File: _____

Rural Municipality of Prairie Lakes By-Law No. 7, 2018

Dear Sir/Madam:

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

Upon inspection of the property, it is apparent that a violation exists in accordance with the Rural Municipality of Prairie Lakes By-Law No. 7, 2018 due to _____. Therefore, the Municipality requests 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 _____ 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 By-Law No. 7, 2018 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 Rural Municipality of Prairie Lakes, 204-537-2241.

Sincerely,
Designated Officer
Rural Municipality of Prairie Lakes

SCHEDULE B TO BY-LAW NO. 7, 2018
RURAL MUNICIPALITY OF PRAIRIE LAKES

Date: _ _ _ , _ _ _ File: _____

Rural Municipality of Prairie Lakes By-Law No. 7, 2018

Unsightly/Unsafe Property at _____

Dear Sir or Madam:

Further to my letter on (_____) 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 Municipality of the Rural Municipality of Prairie Lakes, By-Law No. 7, 2018

Specifically, your property contains _____ 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:

The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer is an amount owing 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*.

If you wish to appeal this Order to the Rural Municipality of Prairie Lakes, you may do so in writing in the form attached to the By-Law as Schedule "C". **You must make written appeal and deliver it to the Municipal Office within 21 days of the date of this letter.** Please deliver your written appeal to the Rural Municipality of Prairie Lakes, 112 Third Street South, Belmont, MB R0K 0C0 or fax to 204-537-2364.

Sincerely,

Designated Officer

Rural Municipality of Prairie Lakes

**SCHEDULE C TO BY-LAW NO. 7, 2018
RURAL MUNICIPALITY OF PRAIRIE LAKES**

IN THE MATTER of the Unsightly/Unsafe Property By-Law No. 7, 2018 of the Rural Municipality of Prairie Lakes

NOTICE OF OBJECTION

To: Rural Municipality of Prairie Lakes

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural Municipality of Prairie Lakes from the Order to_____

—

_____ made by _____ on the ____ day of _____, 20__ respecting the premises known as _____.
Dated at _____, Manitoba, this ____ day of _____, 20__.

Signature of Appellant

Address

**SCHEDULE D TO BY-LAW NO. 7, 2018
RURAL MUNICIPALITY OF PRAIRIE LAKES**

File: _____
Date: _____

Dear Sir/Madam:

Re: RURAL MUNICIPALITY OF PRAIRIE LAKES By-Law No. 7, 2018

NOTICE OF DISPOSITION

IN THE MATTER of the Order to _____
_____ made on the ____ day of _____,

20__ respecting the premises known as _____.

PLEASE TAKE NOTICE that the Council of the Rural Municipality of Prairie Lakes, upon consideration of your appeal which was heard on the ____ day of _____, 20____, and in accordance with the authority of the above noted By-Law, has decided that:

1. **THE ORDER IS HEREBY CONFIRMED.** Your property will be inspected for compliance with the terms of the order at _____ (a.m. / p.m.) on the ____ day of _____, 20___. If the terms of the Order have not been met, the Rural Municipality of Prairie Lakes will remedy the contravention of this By-Law and collect the cost of this action. Please note that disobeying this order also constitutes an offense and may result in penalties upon summary conviction in Provincial court.

2. **THE ORDER IS HEREBY VARIED** as follows:

_____.

Your property will be inspected for compliance with these terms at _____ (a.m. / p.m.) on the ____ day of _____, 20___. If these terms have not been met, the Rural Municipality of Prairie Lakes will remedy the contravention of this By-Law and collect the cost of this action. Please note that disobeying this order also constitutes an offense and may result in penalties upon summary conviction in Provincial court.

3. **THE ORDER IS HEREBY SET ASIDE.** You are not required to comply with the terms of the Order.

Chief Administrative Officer Rural Municipality of Prairie Lakes.

**SCHEDULE E TO BY-LAW NO. 7, 2018
RURAL MUNICIPALITY OF PRAIRIE LAKES**

IN THE MATTER of the Unsightly/Unsafe Property By-Law No. 7, 2018 of the Rural Municipality of Prairie Lakes

OFFENCES AND PENALTIES

Unsightly Property - \$100.00 plus cost
Removal/Tow Fee - \$150.00
Storage per Day - \$25.00
Destruction and/or Disposal - \$200.00

**BY-LAW # 7, 2018
THE RURAL MUNICIPALITY OF PRAIRIE LAKES**

PROCEDURE CHECK LIST

1. Received a complaint (unsightly property or derelict vehicle)
 - Date complaint received:
 2. Sent letter advising when Designated Officer will inspect the property
 - Date letter sent:

 - Date of inspection:
 3. If, upon inspection, the Designated Officer deems that the property contravenes the By-Law, registered mail or personal delivery of letter advising:
 - a) what action needs to take place and by what date;
 - b) provide date for opportunity to appeal to Council; and
 - c) advise that the Municipality will do the work if the Owner fails to do so and that costs incurred will be a charge against the Owner/Property
 - Date 1st letter sent/delivered:

 - Date of 2nd inspection:

 - Date 2nd letter sent/ delivered:
 4. Remedial Action is completed within time frame
 - Date letter of appreciation for co-operation is sent:
 - File is closed
- OR**
4. If applicable, Appeal Hearing scheduled
 - Date of Hearing:

 - Contacted Appellant:
 5. Letter to Appellant confirming Council's decision
 - Date letter (decision) sent:
 6. Proceed with action (based on Council's decision)
 7. Costs charged to the Owner/Property
 - Date invoice issued:

 - Due date of invoice:
 8. If applicable, costs added to applicable Tax Roll Account
 - Date costs added:

 - Roll No.

BY-LAW No. 7, 2018
THE RURAL MUNICIPALITY OF PRAIRIE LAKES

SAMPLE LETTER OF “NOTICE OF ENTRY”

Date
Name
Address

BY-LAW No. 7, 2018 – UNSIGHTLY PROPERTY (AND/OR) DERELICT VEHICLE(S)

CIVIC ADDRESS:

LEGAL DESCRIPTION:

ROLL NO.

THE RURAL MUNICIPALITY OF PRAIRIE LAKES

Dear Sir/Madam:

The Rural Municipality of Prairie Lakes has received a written complaint that your property is unsightly and/or derelict vehicle(s) are stored on your property located at (*civic address*) . This contravenes By-Law # 7, 2018 of the Rural Municipality of Prairie Lakes. A copy of By-Law No. 7, 2018 is enclosed for your information.

This letter shall serve notice that a Designated Officer of the Municipality will enter upon your property, between the hours of and on , 20 to carry out an inspection to verify the nature of the condition of the property.

If the above time and date is not acceptable, please contact the undersigned to arrange an alternative time.

Yours truly,
THE RURAL MUNICIPALITY OF PRAIRIE LAKES
Tracy Lockhart, CMMA
Chief Administrative Officer

Enc.