



## **RURAL MUNICIPALITY OF DE SALABERRY**

### **BY-LAW NO. 2344-17**

#### **Nuisance and Unsightly Premises By-Law**

BEING a by-law to maintain property, regulate nuisances, derelict, abandoned buildings, and unsightly property and the parking and storing of motor vehicles upon property in the Rural Municipality of De Salaberry;

WHEREAS Section 232(1) of *The Municipal Act* provides, in part,

“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;
- (f) property adjacent to highways or municipal roads, whether the property is privately or publicly owned;
- (o) the enforcement of by-laws.”

AND WHEREAS Section 232(2) of *The Municipal Act* provides, in part,

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

- (a) regulate or prohibit;

AND WHEREAS Section 233 of *The Municipal Act* provides, in part,

“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, weed, odors, unsightly property, fumes and vibrations.”

AND WHEREAS Section 236(1) of *The Municipal Act* provides, in part,

“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, rate, toll, charge, or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
  - (i) 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,
  - (ii) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles or other things related to a contravention,
  - (iii) charging and collecting costs incurred in respect of acting under subclause (iv),
  - (iv) imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.”

AND WHEREAS Section 242(1) of *The Municipal Act* provides, in part,

“If a designated officer finds that a person is contravening of a by-law or this or any other Act 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”.

AND WHEREAS Section 242(2) of *The Municipal Act* provides, in part:

“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.”

AND WHEREAS Section 243(1)(2) of *The Municipal Act* provides, in part,

“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) removed 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.

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 the Council of the Rural Municipality of De Salaberry deems it necessary to pass a Bylaw for the purpose of maintaining property, regulating and abating nuisances and abandoned and unsightly property that are detrimental to the health, safety and comfort of the residents of the Municipality and also for the parking and storing of motor vehicles;

NOW THEREFORE the Council of the R.M. of De Salaberry in open Council assembled enacts as follows:

### **PART 1 - DEFINITIONS AND INTERPRETATION**

1. That this Bylaw be cited as the Rural Municipality of De Salaberry “Nuisance Bylaw”.
2. The purpose of this Bylaw is to provide for the abatement of nuisances, including property, activities, or things that adversely affect:
  - (a) The safety, health or welfare of people;
  - (b) People’s use and enjoyment of their property;
  - (c) The amenity of a settlement.
3. In this Bylaw, unless context otherwise requires, the following words or terms have the following meanings:
  - “Building Inspector” means the Building Inspector contracted by the Municipality to conduct building inspections;
  - “Compliance Order” means an order to remedy a contravention of this Bylaw;
  - “Council” means the Municipal Council of RM of De Salaberry;
  - “Chattel” means movable objects such as, but not limited to, vehicles, appliances, parts, or sheds;
  - “Derelict Equipment” includes equipment or machinery which has been abandoned; equipment or machinery which is inoperative by reason of its disassembly, age mechanical condition or other cause; or any household appliance stored outside of a residence or other building regardless of whether or not the appliance is in an operating condition;
  - “Derelict Vehicle” means the whole or any part of any motor vehicle or farm implement that:
    - (a) Is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition by reason of removed parts or other such reasons; or
    - (b) Does not have a current license plate attached to it, or in respect of which no current registration certificate has been produced; and
    - (c) Is not located in a building or located on the property such that it is concealed from view;

“Designated Officer” means the Chief Administrative Officer and/or any person appointed by the Chief Administrative Officer;

“Fence” means a vertical barrier which is used to prevent or restrict passage; to provide visual screening, sound attenuation, protection from dust or other elements, or to mark a boundary;

“Good Repair” means a condition where none of the following is present:

- (a) Significant damage;
- (b) Peeling surfaces;
- (c) Broken, missing or fallen parts;
- (d) Rot or significant deterioration;
- (e) Openings which are not secured against trespassers, or infiltration of air and precipitation;  
or
- (f) Other visual evidence of a lack of general maintenance;

“Graffiti” means any images, lettering, or scratching, scrawled, painted or marked in any manner on Property without the consent of the property owner;

“Municipality” means the Rural Municipality of De Salaberry;

“Nuisance” means a condition of property, or a thing or an activity that adversely affects or may adversely affect the safety, health or welfare of people, people’s use and enjoyment of their property, or the attractiveness of the Municipality, and includes but is not limited to:

- (a) Building in a ruinous or dilapidated state of repair;
- (b) An unoccupied building that is damaged and is an imminent danger to public safety;
- (c) Land that is overgrown with grass and weeds to an extent, that in the opinion of a designated officer, is excessive or demonstrates neglect;
- (d) Untidy and unsightly property or property that is not in a state of good repair;
- (e) Derelict vehicles; and
- (f) Open excavations on property;

“Occupant” means any person other than the registered Owner who is in possession of the Property; including, but not restricted to, a lessee, licensee, tenant or agent of the Owner, or any person residing at, or exercising control over or in regard to, the Property;

“Owner” means:

- (a) Any Person registered as the Owner of the Property on the assessment roll of the Municipality;
- (b) A Person holding himself out as the person having the power and authority of ownership or a person whom in the time being exercises the powers and authority of ownership;
- (c) A Person controlling the Property during construction;
- (d) A Person who is the Occupant of the Property under, license, or permit; or
- (e) In respect of any Property other than land, the actual owner, occupant, operator, or Person in lawful possession of the Property;

“Person” includes a corporation, a partnership, an individual, or their representatives, successors, heir(s), executor(s), administrator(s), or other legal representative(s);

“Property” means:

- (a) The whole or part of any parcel of land, including the buildings, structures or improvements thereon and land immediately adjacent to any buildings or structures;
- (b) The external surface of all building or structures; or
- (c) Where the context so requires, a chattel;

“Refuse” means all solid and liquid wastes including, but not limited to, broken dishes, cans, glass, rags, cast-off clothing, waste paper, cardboard, containers, organic and inorganic yard and garden waste, garbage, fuels, chemicals hazardous materials, derelict vehicles, derelict equipment, tires, or any other form of waste or litter;

“Structure” means any building, garage, retaining wall, scaffolding, garbage container, trailer, fence, mobile home, shed, portable shack or other improvement erected or placed in, on, or under land, whether or not it is affixed to the land;

“Unsightly Premise” means any Property whether land, buildings, structures or improvements or personal property, or any other combination of the above, located within the Municipality which, the opinion of the Designated Officer is in an unsightly condition;

“Utility Trailer” means a vehicle so designed that it may be attached to or drawn by a motor vehicle and intended to transport property, goods, etc;

“Vehicle, Recreational” means a vehicle or trailer that is designed, constructed, and equipped, either temporarily or permanently, as an accommodation for travel, vacation or recreational use and includes travel trailer, motorized homes, slide-in campers, chassis mounted campers, boats, all-terrain vehicles, snowmobiles, and tent trailers, whether licensed or unlicensed;

“Yard” means an open space on land which is unoccupied and unobstructed by the principal building.

4. The Owner of any property is responsible for all activities on or in regard to the Property that may constitute prohibitions or breaches of this Bylaw.
5. The registered owner of land is liable for any offences or contraventions of this Bylaw related to or committed on those lands;

## **PART 2 – PROPERTY MAINTENANCE**

### **Land**

6. No Person shall cause, allow or permit a Nuisance or Unsightly Premise to exist on land they own or occupy.
7. For the purpose of greater certainty, a Nuisance or Unsightly Premise with respect to land means a condition, that in the opinion of the Designated Officer, indicates a serious disregard for general maintenance or upkeep, a disregard for the standards contained in this Bylaw, or a danger to public safety or property, some examples of which include but are not limited to the following:
  - (a) excessive accumulation of material including but not limited to construction equipment or machinery, building materials, appliances, household goods, boxes, tires, vehicle parts, garage or refuse, whether of any apparent value or not;
  - (b) the failure to dispose of refuse or other waste products accumulating in temporary storage containers upon the property within a reasonable time;
  - (c) storage of inoperable, damaged, dismantled or Derelict Vehicle(s) or motor vehicle(s), whether insured or registered or not;

- (d) uncut grass longer than 6 inches or the presence of weeds, which in the opinion of the Designated Officer, are excessive or which demonstrate neglect;
- (e) the excessive accumulation of feces, animal material, or any carcasses;
- (f) production of any general offensive odours, unless such odours are produced through reasonable and generally accepted agricultural practice, or by the reasonable and generally accepted operation of a permitted landfill or transfer station;
- (g) the presence of trees, shrubs, weeds or other vegetation which as a result of its location on the Property has caused, or may cause danger, or has or may cause damage, inconvenience or devaluation to adjacent property, including Public Lands;
- (h) excessively damaged or structurally unsound fence or retaining wall that borders Public Lands or other private lands;
- (i) the placement of any Property on Public Lands without the expressed approval of the RM;
- (j) the presence of an excavation, or any other hazard or condition which poses a danger to public safety;

8. In no event shall the number of derelict vehicles per individual property exceed two (2) in an Urban Zone. Properties Zoned Rural shall be exempt from this condition.

9. The derelict vehicle(s) shall be parked in an unobtrusive place in the back yard of the property and the vegetation around the vehicle shall be cut to ensure as much as possible the amenity of the neighborhood.

10. No Person shall deposit or leave or cause or permit the depositing or leaving of Refuse upon any land, water or ice, unless:

- (a) The property is designated, by the Municipality as an area for the disposal of refuse, and such refuse is disposed of in accordance with the rules and regulations of *The Environment Act*;
- (b) The refuse is placed into a litter receptacle;
- (c) The litter is deposited in a location designated for this purpose, by the Municipality;
- (d) The depositing or leaving is the result of an emergency;
- (e) The refuse is placed for normal pick-up service by the Municipality for removal to a waste disposal grounds.

11. No person shall sweep, dump or otherwise deposit litter into any gutter, boulevard, street or other public place without permission of the designated officer.

12. Persons owning or occupying property shall keep the sidewalk and boulevard in front of and flanking, and the lane at the rear of their property, free of litter as well as the ditches and drains.

13. Notwithstanding 6. of this Bylaw:

- a) the accumulation of manure or other animal waste on Property located in within a Rural Zone as defined by the Municipality Zoning Bylaw, shall not constitute a Nuisance under the Bylaw;
- b) Land located within a Rural Zone as defined in the Zoning Bylaw, but not used for agricultural purposes, shall not constitute an Unsightly Premises if, in the opinion of the Designated Officer, the unsightly nature of the Property is properly screened so as to not be visible to the public;

- c) This Bylaw shall not be interpreted to prevent bona fide and lawfully permitted commercial, industrial, agricultural, construction, demolition, renovation, landscaping, clean-up, storage or other related lawful activities from being carried out on, in or in relation to a premises.

14. Any building materials, lumber, scrap metal, boxes or similar items stored in a yard shall be neatly stacked in piles and elevated off the ground so as not to constitute a nuisance or harborage for rodents, vermin and insects. These materials shall be elevated at least six (6) inches off the ground and shall be stacked at least ten (10) feet from the exterior walls of any building and at least three (3) feet from the property line.

### **Drainage**

15. Eavestroughs, sump pump discharges and downspouts, if provided along any building, shall prevent the discharge of water into external stairs, landings and walkways and shall direct water away from the building;

16. Rain water downspouts, sump pump discharges or flow of water from a hose or eavestroughs, shall not discharge onto any adjacent premises or roadway.

### **Buildings**

17. No person shall cause or permit a Nuisance or an Unsightly Premise to exist with respect to any building or structure on land they own or occupy.

18. For the purpose of greater certainty, a Nuisance or Unsightly Premise with respect to buildings or structures means a condition, that in the opinion of a Designated Officer, indicates a serious disregard for general maintenance or upkeep of the building or structure, a disregard for the standards contained in this Bylaw or a danger to public safety or property, and present health or fire hazards, some examples of which include but are not limited to the following:

- (a) the lack of repair or maintenance of buildings, structures or improvements, including but not limited to:
  - (i) the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements;
  - (ii) broken or missing windows, siding, shingles, shutters, eaves or other building material; or
  - (iii) significant fading, chipping or peeling or painted areas of buildings, structures or improvements on Property;
- (b) any graffiti displayed on the building that is visible from any surrounding property;
- (c) the presence of excavation, structures, materials or other hazard or condition which poses a danger to public safety.

### **Recreational Vehicles, Utility Trailers, and Off-Highway Vehicles**

19. Recreational Vehicles including attachments (e.g. hitches, bike carriers, etc) that are parked on a front driveway shall not extend onto the sidewalk, curb or roadway.

20. No person shall park recreational vehicles that would obstruct access to or exit from a roadway, from any driveway or adjacent roadway.

21. No person shall park a vehicle or any vehicle with any type of trailers attached thereto upon any roadway in a residential development if the overall length of the vehicle, recreational vehicle or the vehicle with trailer exceeds nine (9) meters.
22. Clause 20 shall not apply so as to prohibit such a vehicle being parked on a roadway for the purpose of cleaning, unloading, or loading goods to or from premises abutting such roadway provided this is completed within twenty four (24) hours.

### **PART 3 - COMPLAINTS AND INSPECTIONS**

#### **Complaints and Inspections**

23. Upon receipt of a written complaint, as aforesaid, from a registered owner within the Municipality, the Designated Officer shall inspect all property alleged to be in violation of the Bylaw, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this Bylaw.

#### **Inspections**

24. For the purpose of ensuring that the provisions of this Bylaw are being complied with, a Designated Officer, may enter in or upon any Property, in accordance with Section 239(1) of *The Municipal Act*, to carry out an inspection, enforcement or other actions required or authorized by this Bylaw, *The Municipal Act*, or other statute.
25. Absent an emergency or extraordinary circumstances, a Designated Officer exercising his authority to enter a Property for inspection or enforcement purposes shall provide the Owner or Occupant of the Property with reasonable notice as required in *The Municipality Act*.
26. In accordance with section 239(3) of *The Municipal Act*, in an emergency, or in extraordinary circumstances, the designated employee or officer is not required to give reasonable or any notice to enter land or a building, and may take any inspection or enforcement action without the consent of the owner or occupier of the land or building and without a warrant.
27. If after giving reasonable notice, the Owner refuses to allow entry, inspection, or enforcement action, the Municipality may apply to Court for an Order.

### **PART 4 - COMPLIANCE ORDER**

28. If the inspections reveal a violation of any provision of this Bylaw, the Designated Officer may issue a Compliance Order requiring the owner to:
  - (a) direct the person to stop doing something, or to change the way in which the person is doing it;
  - (b) direct the person to take any action or measure necessary to remedy the contravention and, if necessary, to prevent a recurrence of the contravention;
  - (c) state a time within which the person must comply with the order; and
  - (d) state that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention, at the expense of the person.
29. The Compliance Order shall:
  - (a) Describe the Property by name, if any, or the municipal address or legal description;
  - (b) State what provisions of this Bylaw or *The Planning Act* have been contravened;
  - (c) State the particulars of what action or measure is required to remedy the contravention of this Bylaw;

- (d) State the time which the actions or measures required to remedy the contravention are to be done;
- (e) State that if the required action or measure is not done within the time specified, the Municipality may take action or measures at the expense of the Owner or Occupant, and that the said expenses will be recoverable in accordance with the provisions of *The Planning Act*;
- (f) State that the Person whom the Compliance Order is directed has a right to review of the Order by Council within the time period specified by *The Planning Act*.

30. The Compliance 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.
31. In the event that the Building Inspector is of the opinion that a building, structure or other premises is by reason of its ruinous, dilapidated, unsafe, or unprotected condition, dangerous to the public safety, he/she shall immediately report to the Designated Officer and provide full details of the apprehended danger to public safety.
32. Where as a result of the report from the Building Inspector or otherwise, the Designated Officer is of the opinion that a building, structure or other premises is by reason of its ruinous, dilapidated, unsafe, or unprotected condition, dangerous to the public safety, the Designated Officer may make an order respecting the building, structure or premises in accordance with the provisions of *The Municipal Act*.
33. Where, in the opinion of the Designated Officer, an unoccupied building is so ruinous, unsafe, or dilapidated as to be dangerous, or likely to cause injury to a person or damage to property, the Municipality may promptly take such reasonable emergency action as is required to eliminate or minimize the hazard in accordance with the provisions of *The Municipal Act*.

#### **PART 5 - APPEAL**

34. Any owner aggrieved by an order issued by the Designated Officer under this by-law may, within 14 days of service of the order, appeal to the Council, paying any appeal fees specified in the Municipal Schedule of Fees.
35. Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
36. 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.

#### **PART 6 – OFFENCES**

37. 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.

38. In accordance with Section 249(1) of *The Municipal Act*, every person who is guilty of an offence under this Act is liable on summary conviction:
- (a) in the case of an individual, to a fine of not more than \$500.00, or imprisonment for a term of not more than three months, or both; and
  - (b) When a contravention continues for more than one day, the person is guilty of a separate offence for each day the offence continues.
39. The Municipality may apply to the Court of Queen's Bench for an injunction or other order to enforce a Bylaw, or to restrain a contravention of the by-law. The court may grant or refuse to grant the injunction or other order, or may make any other order that it considers fair and just.
40. When a person is convicted of an offence, a justice may, in addition to imposing a penalty under subsection (1), order the person to do one or all of the following:
- (a) Comply with the provision of this Act or the by-law that the person contravened;
  - (b) Pay to the Municipality the amount of the costs incurred by the district or municipality as a result of the contravention;
  - (c) If the Municipality incurs costs and expenses to rectify an emergency on the property, then those actions or measures taken to eliminate an emergency are an amount owing to the municipality by the person who caused the emergency and may be collected in the same manner as a tax may be collected or enforced under *The Municipality Act* as per section 247(5).

#### **PART SIX – EXCLUSIONS AND EXEMPTIONS**

41. Standards, requirements, and prohibitions of this Bylaw do not apply to the Municipality, Municipal Property, or Municipal operations

#### **PART SEVEN – SEVERABILITY**

42. Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remaining Bylaw shall be maintained.

#### **PART EIGHT – REPEAL**

43. That By-Law No. 2215-05 be hereby repealed.

#### **PART NINE – EFFECTIVE DATE**

44. This By-Law shall come into effect after third reading and upon being signed.

DONE AND PASSED in Council assembled at the Council Chambers of the R.M. of De Salaberry in St. Pierre-Jolys, Manitoba this 8<sup>th</sup> day of August, 2017.

Original Signed by Marc Marion  
Reeve

Original Signed by Kristine Shields  
Chief Administrative Officer

Read a first time this 25<sup>th</sup> day of July, 2017.  
Read a second time this 8<sup>th</sup> day of August, 2017.  
Read a third time this 8<sup>th</sup> day of August, 2017.