

MUNICIPALITY OF RHINELAND

BY-LAW NO. 2019-12

A by-law of the Municipality of Rhineland to maintain property and to regulate nuisances, derelict, abandoned, unsightly and unsafe property.

WHEREAS:

- A. Section 232(1) of the Municipal Act ("Act") provides that 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;
- B. Section 236(1) of the Act provides that, without limiting the generality of 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;
  - (b) remedying contraventions of by-laws.
- C. Council is of the opinion that it is in the public interest that nuisance, unsightly and unsafe property should be regulated and controlled to protect the safety of people and property.

NOW THEREFORE the Council of the Municipality of Rhineland enacts as a by-law the following:

- 1. This By-Law may be referred to as the Unsightly Property By-law.

**Definition**

- 2. In this By-law:

"owner" means a person who

- a. is the owner of an estate in fee simple in land that is subject to the Real Property Act, or
- b. is the owner of an estate in fee simple in land that is not subject to the Real Property Act and who is the grantee named in a valid conveyance of land that is registered under the Registry Act.

"Noxious weeds" means plants designated as weeds in The Noxious Weeds act and Regulations as amended from time to time.

"Rubbish" means decaying or non-decaying solid and semi-solid wastes, including, but not limited to both combustible and non-combustible wastes, such as paper, trash, refuse, cardboard, waste , material, cans, glass, bedding, mattresses, crates, rags, barrels, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, construction and demolition waste; unlicensed, dilapidated, unused or stripped automobiles, tires, machinery, mechanical or metal parts, discarded or dilapidated appliances, discarded or dilapidated furniture, ashes from fireplaces and on-site incinerators, yard clippings, and brush, wood, dry vegetation, weeds, dead trees, rodent infestations, animal feces, and piles of earth mixed with any of the above;

"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

"unsightly property" means a property which in the opinion of the designated officer is detrimental to the surrounding area.

**Unsafe/Unsightly property prohibition**

- 3. No person shall allow the condition of property to become unsafe/unsightly or allow an unsafe/unsightly condition to occur or remain on property. A person responsible under this Section and By-law may be the owner or occupier of, or a person renting or leasing, the property.

**Standards**

4. 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 the following:
- a. rubbish;
  - b. unsafe structure(s);
  - c. unsightly property;
  - d. household appliances, whether or not the same are capable of operation;
  - e. the growth of weeds as defined in The Noxious Weeds Act so that the same become a nuisance to adjoining properties;
  - f. the growth of grass to a length which in the opinion of the designated officer is unsightly;
  - or
  - g. regular outdoor burning, the smoke or odour of which causes a nuisance to adjoining properties

**Enforcement action**

5. The position of an Officer is established. The Officer shall be the person appointed by the Municipality as its By-law Enforcement Officer.
6. The By-law Enforcement Officer may conduct inspections and take steps to administer and enforce this By-law or to remedy a contravention of this By-law, and for those purposes shall be a designated officer and have the powers of a designated officer under the Act, a by-law enforcement officer under the Municipal By-law Enforcement Act.
7. The Officer may commence a prosecution under the Act, the Municipal By-law Enforcement Act for the purpose of enforcing a contravention of this By-law through an offence.
8. The Officer shall have the powers, duties, discretion and functions of a designated officer set out in:
- a. Section 242 of the Act, for the purpose of making orders requiring persons responsible for the contravention of a by-law and the Act, and is authorized to enforce any orders made or issued under a by-law or the Act, and to remedy a contravention;
  - b. Section 243 of the Act, for the purpose of making orders with respect to dangers to public safety or property that is in an unsightly or unsafe condition;
  - c. Sections 239 and 240 for carrying out inspections, enforcement and to remedy a contravention; and
  - d. Section 249 of the Act, for the purpose of enforcing a contravention through an offence.
9. The Officer may carry out inspections to determine what actions or measures a person must take in connection with any matter set out in Section 5, whether the actions or measures set out in the order have been taken, and to prevent a re-occurrence of a contravention.
10. In the Sections below “order” refers to an order under Sections 242 and 243 of the Act.
11. An order of the Officer must be given in writing, and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
12. A person served with an order may request that Council to review the order, by written notice to Council within 14 days after the date of receipt of the order.
13. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review of the order, and shall notify the person of the date of the review. The notice shall include a statement:
- (a) of the time, place and purpose of the hearing; and
  - (b) that if the person does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding.

14. At the time and place set out in the notice, Council shall hold a hearing to consider the request for review and the order. The person may appear in person or by counsel. The person is entitled to hear the material presented at the hearing and to inspect any documents filed.
15. Following the hearing, Council shall determine and decide any matter respecting the review and the order. Council may confirm, vary, substitute or cancel the order.
16. If the person does not attend the hearing, the matter may be dealt with in their absence and the person shall not be entitled to any further notice in the proceeding.
17. The decision of Council on an appeal under this By-law shall be final.
18. The time specified in an order is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.
19. If the order of the Officer so provided, the actions or measures will be taken at the person's expense. The costs of any actions or measures taken will be an amount owing by the person to the Municipality, and may be collected in any manner in which a tax may be collected or enforced under the Act.
20. The Officer is authorized to make expenditures on behalf of the Municipality to carry out the actions or measures if the time provided for in an order has expired and the order has not been appealed or the order has been appealed and Council has confirmed, varied or substituted the order.
21. The Municipality may dispose of, store or sell all or part of any structures, materials or items removed as a result of any actions or measures taken. The proceeds of any such sale will be used to pay expenses and costs incurred in connection with the making of the order and taking of the actions or measures by the Officer. Any excess proceeds will be paid to the person entitled to them.

#### **Offence**

22. A person who contravenes this By-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00. Any costs associated with or resulting from enforcing this By-law are in addition to any such fine, and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under the Act.

#### **Transitional**

23. This By-law repeals the Town of Plum Coulee By-law No. 714-09 and the Town of Gretna By-Law No. 742-2004 except in respect of an offence committed before this By-law comes into force. By-law No. 714-09 and 742-2004 remain in effect to the extent required for the prosecution of any such offence.

**DONE AND PASSED**, in the Municipality of Rhineland, Manitoba this 25<sup>th</sup> day of September, 2019.

  
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Reeve

  
\_\_\_\_\_  
Chief Administrative Officer

READ A FIRST TIME this 11<sup>th</sup> day of September, 2019 A.D.

READ A SECOND TIME this 25<sup>th</sup> day of September, 2019 A.D.

READ A THIRD TIME this 25<sup>th</sup> day of September, 2019 A.D.