Rural Municipality of Sifton By-law No. 03-2021

Being a by-law to maintain property and to regulate nuisances, derelict, abandoned and unsightly property

Repeal RM Sifton By-Law No 1422 and TOL By-Law No 642

SECTION 1 – INTERPRETATION

WHEREAS The Municipal Act reads 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...

(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 231(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 include noise, weeds, odours, 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 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,

(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 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 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".

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 Sifton;

SECTION 2 – POLICIES & PROCEDURES

NOW THEREFORE the Council of the Rural Municipality of Sifton, in Council assembled, enact the following policies and procedures which shall govern the inspection, remedy, enforcement or action respecting unsightly and/or unsafe property and/or structures or those which may cause a nuisance in the Rural Municipality of Sifton:

1. Definitions

a) **"council"** means the council duly elected in the Municipality.

b) **"designated officer"** means a building inspector 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.

c) **"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.

d) **"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.

e) **"Municipality"** means the Rural Municipality of Sifton.

f) **"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.

g) **"owner"** in the case of any property means the registered owner of the property according to the current assessment records of the Municipality.

c) **"person"** means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular.

d) **"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.

e) **"rubbish"** means any garbage, trash, or junk including, but not limited to unwanted or discarded household items, waste from building construction, remodelling 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 neighbourhood aesthetics.

f) **"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.

g) **"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.

Application

2. This by-law applies to all property and to all owners and occupiers of property within the Municipality except those properties listed in 2(a):

(a) Exempted properties are "Agriculture General" parcels that are 80 acres and larger.

Standards

3. 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 motor vehicles capable of registration under the Highway Traffic Act or the Off-Road Vehicles Act, which are not registered under either of those statutes, 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.

Complaint

4. Any person may allege a violation of this by-law by filing a written or call-in complaint with the designated officer or the municipal administration office in such form and with such particulars as the designated officer may from time to time require.

Inspections

5. 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.

Warnings and Orders

6. 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 affected 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;

Appeals

7. 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".

8. 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 10 below no later than 5 days prior to the appeal hearing.

9. The council shall determine an appeal within 5 days of a hearing and shall serve a notice of disposition 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.

Service of Notices or Orders

10. Any order issued by the designated officer under subsection 6(b) and a notice of hearing issued under section 8 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.

11. 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 an 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.

SECTION 3 – FINES & PENALTIES

Enforcement

12. 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. 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.

13. 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 offence and is liable, on summary conviction, to a fine not exceeding $1,000.00, or in the case of an individual, to imprisonment for a term not exceeding six months, or to both such a fine and such an imprisonment.

14. Where a corporation commits an offence 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 offence or offences, is likewise guilty of the offence and is liable on summary conviction, to the penalties for which provision is made in section 13 above.

15. 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.

SECTION 4 – ENACTMENT

16. This By-law is to come into force and take effect on the date of its enactment.

17. This By-law repeals in full RM Sifton By-Law No 1422 and Town of Oak Lake By-law No 642.

18. DONE AND PASSED in Council duly assembled in the Council Chambers of the Rural Municipality of Sifton in Oak Lake, Manitoba, this 12th day of August, 2021.

Cyril Druwe, Reeve

Lon Turner, Chief Administrative Officer

READ A FIRST TIME THIS 10th DAY OF June 2021
READ A SECOND TIME THIS 12th DAY OF August 2021
READ A THIRD TIME THIS 12th DAY OF August 2021

SCHEDULE "A"

Date File:

(*name and address*)

Dear Sir/Madam:

Re: Unsightly/Unsafe Property By-Law

Rural Municipality of Sifton

Acting upon a written complaint, the designated officer had cause to inspect your property at *civic and legal address* in the Rural Municipality of Sifton.

Upon inspection of the property, it is apparent that a violation exists in accordance with By-law No. 03-2021 due to _____.

Therefore, the Municipality requests that you rectify the situation by (*describe violations/ describe remedy*) on or before (*date*).

In accordance with Section 239(1) of the Municipal Act, I will enter onto the property on (date) 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. 03-2021 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 Box 100, Oak Lake MB R0M1P0.

Sincerely,

_____
designated officer

SCHEDULE "B"

Date File:

(*name and address*)

Dear

Re: Unsightly/Unsafe Property at (Civic and Legal Address)

Further to my letter of _____, this is to advise you that a second

inspection of your property at _____ conducted on _____
(Civic and Legal Address) (*inspection date*)

found that it continues to be in violation of the Rural Municipality of Sifton Unsightly Property By-Law

No. 03-2021 (the "By-Law").

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
(describe order / remedy) (day/month/year)

comply with this order, please note that section 12 of the By-law provides as follows:

1. 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 the Municipality by the owner of the property.
2. 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.

You may appeal this order in writing by filing with the Chief Administrative Officer of the Municipality at any time before the time for compliance with such order has elapsed an objection substantially in the form attached to the By-law as Schedule "C".

I trust you will govern yourself accordingly.

Sincerely,

_____
designated officer

SCHEDULE "C"

Unsightly Property By-Law No. 03-2021 of the Rural Municipality of Sifton

IN THE MATTER of the Unsightly Property By-Law No. 03-2021 of the Rural Municipality of Sifton.

NOTICE OF OBJECTION

To: _____
(Name of Municipality)

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural

Municipality of Sifton from the Order to _____
(Nature of Remedy/Repair)

made by _____ on the _____
(officer name and title) (day/month/year)

respecting the premises known as_____.

Dated at _____, Manitoba, this _____ day of _____, 2000.

_____ _____
Signature of Appellant (Print Name)

Address

_____

_____

_____