

RURAL MUNICIPALITY OF PEMBINA

BY-LAW 5/99

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF PEMBINA RESPECTING UNSIGHTLY PROPERTY WITHIN THE MUNICIPALITY.

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"
- (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, weeds, odours, 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-law, including
 - (i) creating offences
 - (ii) subject to the regulations, providing for fines and penalties...
 - (iii) providing that an amount owing under sub-clause (ii) may be collected in any manner in which a tax may be collected or enforces under this Act;
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles or other thing related to a contravention,

- (v) charging and collecting costs incurred in respect of acting under subclause (iv);
- (vi) imposing a sentence of imprisonment....”

AND WHEREAS Section 242 (1) of *The Municipal Act* provides in part
“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.”

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 demolish of a structure..
- (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.”

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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 be 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;
- (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 Rural Municipality of Pembina deems it necessary to pass a by-law prohibiting and rectifying unsightly property:

NOW THEREFORE THE COUNCIL OF THE RURAL MUNICIPALITY OF PEMBINA, IN OPEN SESSION, DULY ASSEMBLED, ENACTS A BY-LAW AS FOLLOWS:

1. THAT in this by-law, “Designated officer” shall mean a member of Council 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.
2. THAT if, in the opinion of the designated officer, a structure, yard, excavation or hole is, because of its unsightly condition, detrimental to the surrounding area, the designated officer may, by written order require the owner to:
 - (a) to improve the appearance of the property in the manner specified in the written order; or
 - (b) if the property is a building or other structure, remove or demolish the building or structure and level the site.
3. 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.
4. 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

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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.

5. THAT any owner aggrieved by an order issued by the designated officer under this by-law may, within 15 days or service of the order, appeal to the Council.
6. THAT Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
7. 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.
8. 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*.
9. THAT any person who contravenes or disobeys, or refuses or neglects to obey 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.
10. THAT 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, is likewise guilty of the offence and is liable, on summary conviction, to the penalties for which provision is made in Section 9, above.
11. THAT 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.

DONE AND PASSED, in open session, at the Village of Manitou this day of
, 1999.

REEVE

R.M. of Pembina By-Law 5/99 Respecting Unsightly Property Within the Municipality
CHIEF ADMINISTRATIVE OFFICER

Read a first time this day of , 1999
Read a second time this day , 1999
Read a third time this day of , 1999