

The Municipality of Louise

BY-LAW NO. By-2015-11

BEING A BY-LAW OF THE MUNICIPALITY OF LOUISE RESPECTING
UNSIGHTLY/UNSAFE 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 these by-laws;

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

NOW THEREFORE the Council of the Municipality of Louise, in open Council assembled, enacts as follows:

1. Definitions

- a) "council" means the council duly elected in the Municipality of Louise;
- b) "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;
- c) "interested person" means the owner or occupier of property which is the subject of an order made under the authority of this by-law;
- d) "Municipality" means the Municipality of Louise.
- e) "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;
- f) "owner" in the case of any property means the registered owner of the property according to the current assessment records of the Municipality;
- g) "person" means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular;

h) "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;

i) "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;

j) "store" means to keep or allow to be kept;

k) "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;

l) "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;

m) "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 Municipality of Louise.

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 repair/body shop or 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.

4. Complaint

Any person may allege a violation of this by-law by filing a complaint, either written and signed, or verbal, if they wish to remain anonymous, with the Chief Administration Officer of the Municipality of Louise with such particulars as the designated officer may from time to time require. The complaint will then be forwarded to a Council member of the Municipality for a visual verification, after which the designated officer may be notified for follow-up investigation and action.

5. Inspections

Upon receipt of a complaint, as aforesaid, the designated officer may inspect all property alleged to be in violation of this by-law, in a timely manner and as shall be reasonably necessary in order to determine whether or not there has been a violation of this by-law.

- (a) The Designated Officer 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 attaching it to the door, or posting a sign at any normally used entrance to the land, building or other structure to be entered by the Designated Officer to carry out the inspection, remedy, enforcement or action. The appeal process will be described in the first letter.

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 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 the outcome of 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

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.

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.

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 10.1 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.

DONE AND PASSED in Council assembled in the Council Chambers of the Municipality of Louise in Crystal City in the Province of Manitoba, this 14th the day of October, A.D. 2015.

K. Buchanan

Reeve.

Doris F. Heenan

Chief Administrative Officer.

READ a first time this 23rd day of September, 2015.

READ a second time this 14th day of October, 2015.

READ a third time this 14th day of October, 2015.

RECORDED VOTE

RESOLUTION

	In Favour	Opposed	Abstain
BUCHANAN	[x]	[]	[]
MCINTYRE	[v]	[]	[]
SMITH	[]	[]	[]
COLLINS	[x]	[]	[]
MCKAY	[]	[]	[]
CHECKLEY	[x]	[]	[]
DARRACOTT	[x]	[]	[]
WILSON	[x]	[]	[]
LEONARD <i>Deceased</i>	[]	[]	[]
ROBINSON	[x]	[]	[]

[x] CARRIED [] LOST

K. Buchanan

CHAIR