

# THE MUNICIPALITY OF BIFROST-RIVERTON

## BY-LAW NO. 10-2015

**Being a by-law to set property maintenance standards; to regulate nuisances; and to regulate derelict, abandoned, or unsightly property.**

**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.
- 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.

**AND WHEREAS** it is deemed necessary to pass a by-law for the purpose of maintaining property to standards; for regulating and abating nuisances; and for regulating and abating derelict, abandoned, and unsightly property that are detrimental to the health, safety, and comfort of the residents of the Municipality of Bifrost-Riverton.

**THEREFORE BE IT RESOLVED** that the council of The Municipality of Bifrost-Riverton, in open meeting assembled, enacts as follows:

### **DEFINITIONS**

1.1 In this by-law,

- (a) **“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.

- (b) **“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, and where the context requires shall include the plural as well as the singular.
- (c) **“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.
- (d) **“occupier”** means any person in actual or constructive possession of the property pursuant to a lease, tenancy license, or other right to occupy.
- (e) **“owner”** means any person registered as owner of the property according to the current assessment records of the municipality.
- (f) **“person”** means an individual, firm, partnership or corporation, and where the context requires shall include the plural as well as the singular.
- (g) **“property”** means assessable property and includes both real property and personal property, as defined in *The Municipal Assessment Act*.
- (h) **“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, and 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.
- (i) **“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.
- (j) **“unsightly property”** means a property which, in the opinion of the designated officer, is detrimental to the surrounding area.

## **APPLICATION**

- 2.1 This by-law applies to all property and to all owners and occupiers of property within the municipality.

## **STANDARDS**

- 3.1 No owner or occupier of property shall permit on such property, and each owner or 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 nearby properties.

## **COMPLAINT**

- 4.1 Any person may allege a violation of this by-law by filing a written complaint with the designated officer in such form and with such particulars as the designated officer may require.

## **INSPECTIONS**

- 5.1 Upon receipt of a complaint under section 4.1 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**

- 6.1 Where inspections reveal a violation of any provision of this by-law, the designated officer:
- (a) May in their discretion give a written warning 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 6.1(a) above, or if in their

discretion no such warning notice is provided, the designated officer shall issue a written order which shall:

- (i) describe the violation and corresponding remedy;
- (ii) specify the time within which compliance shall be required;
- (iii) 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*;
- (iv) advise of the process of appeal; and
- (v) be substantially in the form attached as Schedule "B".

### **APPEALS**

- 7.1 Any interested person may appeal an order made by the designated officer by filing, with the Chief Administrative Officer, an objection substantially in the form attached as Schedule "C", within the time limit for compliance with such an order.
- 7.2 Upon receipt of an appeal under section 7.1, the Chief Administrative Officer shall cause a copy thereof to be forwarded to the council and the council shall entertain such appeal within twenty-one (21) 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.
- 7.3 A notice of hearing shall be issued by council and shall be served upon the persons and in the manner specified in section 8.1 below no later than seven (7) days prior to the appeal hearing.
- 7.4 The council shall determine an appeal within seven (7) days of a hearing and shall serve a notice of disposition immediately 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
  - (a) set aside the order of the designated officer.

### **SERVICE OF NOTICES OR ORDERS**

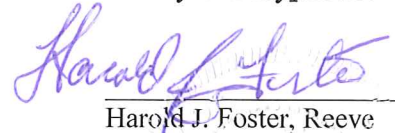
- 8.1 Any order issued by the designated officer under subsection 6.1(b) and a notice of hearing issued under section 7.3 of this by-law shall be served by personal service or by registered mail upon:
  - (a) the owner;
  - (b) the occupier, if any; and
  - (c) in respect to any order alleging a violation of subsection 3.1(b), the mortgagee, if any, of the property effected by order.

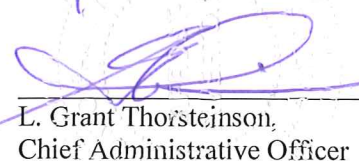
- 8.2 Service made personally shall be deemed to have been made on the date of such service and service made by registered mail shall be deemed to have been made 3 days after posting. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the municipality. In the case of an occupier, the address for mailing shall be the address of the property. 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.

#### **ENFORCEMENT**

- 9.1 The owner is responsible for the costs of actions or measures taken by the municipality to carry out the terms of an order issued by the designated officer. These costs are an amount owed to the municipality. In addition to all other rights of collection which the municipality may have by law, such costs may be collected by the municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.
- 9.2 Any person who contravenes, refuses, or neglects to 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 \$1000. In the case of an individual, to imprisonment for a term not exceeding six (6) months, or to both such a fine and such an imprisonment.
- 9.3 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 guilty of the offence and is liable on summary conviction, to the penalties under section 9.2.
- 9.4 Where the contravention continues for more than one day, the person is guilty of a separate offence for each day it continues.

**DONE AND PASSED** as a by-law of The Municipality of Bifrost-Riverton at Arborg in the Province of Manitoba this 27th day of May, 2015.

  
Harold J. Foster, Reeve

  
L. Grant Thorsteinson,  
Chief Administrative Officer

Read the first time this 13<sup>th</sup> day of May, 2015.  
Read a second time this 13<sup>th</sup> day of May, 2015.  
Read a third time this 27<sup>th</sup> day of May, 2015.

**SCHEDULE "A"**

Date: \_\_\_\_\_  
Roll No.: \_\_\_\_\_  
File No.: \_\_\_\_\_

(Name and Address)  
\_\_\_\_\_  
\_\_\_\_\_

Dear (Name),

**Re: Unsightly/Unsafe Property By-Law No. 10-2015 Warning Notice**

Acting upon a complaint, the designated officer had cause to inspect your property at (Civic/Legal Description) in the Municipality of Bifrost-Riverton.

Upon inspection of the property, it is apparent that a violation exists in accordance with municipality's By-law No. 10-2015 due to \_\_\_\_\_.

Therefore, the municipality requests that you correct the situation by (Describe Violations/Describe Remedy) **on or before (Date)**.

In accordance with Section 239(1) of *The Municipal Act*, a designated officer 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.10-2015 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 by 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 Chief Administrative Officer at the above.

Sincerely,

(Name),  
Chief Administrative Officer

**SCHEDULE "B"**

Date: \_\_\_\_\_  
Roll No.: \_\_\_\_\_  
File No.: \_\_\_\_\_

(Name and Address)  
\_\_\_\_\_  
\_\_\_\_\_

Dear (Name),

**Re: Unsightly/Unsafe Property By-Law No. 10-2015 Written Order**

[Further to my letter of (Date),] this is to advise you that an [a second] inspection of your property at (Civic/Legal Description) conducted on (Inspection Date) found that it is [continues to be] in violation of the Municipality of Bifrost-Riverton Unsightly/Unsafe Property By-law No. 10-2015.

Specifically, your property contains \_\_\_\_\_ on your property which to date has not been removed.

Under the authority of Section 242(1) of *The Municipal Act*, you are hereby ordered to (Describe Order/Remedy) **on or before (Date)**.

In the event that you do not comply with this order, please note that section 9.1 of the By-law provides as follows:

“The owner is responsible for the costs of actions or measures taken by the municipality to carry out the terms of an order issued by the designated officer. These costs are an amount owed to the municipality. In addition to all other rights of collection which the municipality may have by law, such costs 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, at any time before the deadline for compliance with the order, an objection in the form of the attached.

We trust you will govern yourself accordingly.

Sincerely,

(Name),  
Chief Administrative Officer

**SCHEDULE "C"**

**IN THE MATTER** of the Unsightly/Unsafe Property By-Law No.10-2015 of the Municipality of Bifrost-Riverton.

**NOTICE OF OBJECTION**

To: The Municipality of Bifrost-Riverton

**PLEASE TAKE NOTICE** that the undersigned Appellant hereby appeals to the Council of the Municipality of Bifrost-Riverton the Order to \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ *(Nature of Remedy/Repair)*

made by \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_  
*(name and title)*  
\_\_\_\_\_, 20 \_\_, respecting the property described as \_\_\_\_\_.

Dated at \_\_\_\_\_, Manitoba, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_.

Appellant: \_\_\_\_\_

Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mailing Address