

RURAL MUNICIPALITY OF HANOVER

BY-LAW NO. 2132

BEING a by-law to maintain property and to regulate nuisances, derelict, abandoned and unsightly property and the parking and storing of motor vehicles upon property in the Rural Municipality of Hanover

WHEREAS "*The Municipal Act*" C.C.S.M., Cap M225 reads in part as follows:

- 232(1) The 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;...
  - (f) property adjacent to highways or municipal roads, whether the property is privately or publicly owned;...
  - (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 232(1)(c) (activities or things in or on private property) may contain provisions only in respect to:
- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;
  - (b) the parking and storing of motor vehicles, including the number and type of motor 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 being complied with; and
  - (b) remedying contravention 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, motor 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 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 orders:

- (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 Hanover and also for the parking and storing of motor vehicles.

NOW, THEREFORE, the Council of The Rural Municipality of Hanover, in Council assembled, enacts 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 Hanover and for the parking and storing of motor vehicles:

1. Definitions:

- (a) "approach" means the entryway to property extending from the limits of the traveled portion of the highway, as that term is defined in *The Highway Traffic Act*, to the property line and, without restricting the generality of the foregoing, shall include any ditch or swale.

- (b) "Council" means Council duly elected in The Rural Municipality of Hanover.
- (c) "Derelict Vehicle" means a motor vehicle that is not registered under the *Highway Traffic Act* and the *Off Road Vehicle Act* and is junked and obsolete.
- (d) "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.
- (e) "Highway" means any place or way, including any structure forming part thereof, which or any part of which the public is ordinarily entitled or permitted to use for the passage of vehicles, with or without fee or charge therefor, and includes all the space between the boundary lines thereof; but does not include any area designed or intended, and primarily used, for the parking of vehicles and the necessary passageways thereon.
- (f) "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.
- (g) "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.
- (h) "Municipality" means the The Rural Municipality of Hanover.
- (i) "Municipal Road" means includes a road allowance, street, lane, thoroughfare, walkway, bridge and underpass, but does not include a departmental road as defined in *The Highways and Transportation Act*.
- (j) "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.
- (k) "Off-Road Vehicle" shall have the meaning ascribed to that term in the *Off-Road Vehicles Act* and amendments thereto.
- (l) "Owner" in the case of any real property means the registered owner of the property according to the current assessment records of the Municipality and .
- (m) "Park" means to stand a vehicle whether occupied or not.
- (n) "Peace Officer" means a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace,
- (o) "Person" means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular.

- (p) "Personal Property" means goods and chattels and, without limiting the generality of the foregoing, includes inventory, machinery and equipment but does not include an intangible item of personal property or goods or chattels that are improvements.
- (q) "Property" means assessable property and includes both real property and personal property.
- (r) "Real Property" means land and improvements on the land and includes
  - (a) an interest held in land or an improvement,
  - (b) air, surface or subsurface rights and interests in respect of land,and does not include mines or minerals
- (s) "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 and likely to cause a public hazard or nuisance, or is unacceptable offensive in light of community standards or cleanliness or generally accepted neighborhood aesthetics.
- (t) "stand" as applied to a vehicle, whether occupied or not, means to cause the vehicle to remain motionless in one place and "standing" has a corresponding meaning.
- (u) "store" means to keep or allow to be kept.
- (v) "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.
- (w) "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 Municipality.

## 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 Vehicle 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.

## Exceptions

4. Notwithstanding section 3(d)
  - i) a person may park or store a motor vehicle on property upon which a residential or commercial building is located for the purpose of selling that motor vehicle provided that
    - (a) The motor vehicle is registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act* in the name of an individual who is resident at the property or has been so registered within the preceding thirty (30) days; and
    - (b) The motor vehicle is offered or exposed for sale on the property for not more than sixty (60) days in one year; and
    - (c) No other motor vehicle has been offered or exposed for sale on the property within the preceding six (6) months; and

- (d) The motor vehicle is parked or stored within the boundaries of the property; and
  - (e) Not more than one (1) motor vehicle is offered or exposed for sale on the property at any time; and
  - (f) That the parking or storing of the motor vehicle does not contravene the Municipality's Zoning By-law and amendments thereto.
- ii) a person may park or store a motor vehicle on property upon which a residential or commercial building is located provided that:
- a) the parking or storing of the motor vehicle does not contravene the Municipality's Zoning By-law and amendments thereto; and
  - b) provided that
    - (I) the motor vehicle is registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act*; or
    - (II) the motor vehicle has, within the preceding thirty (30) days been registered for use pursuant to *The Highway Traffic Act* or *The Off-Road Vehicles Act*; or
    - (III) the motor vehicle is wholly contained within a lawfully existing structure on the property; or
    - (IV) the motor vehicle is parked or stored at the rear of any dwelling on the property so as to be entirely screened from public view in a tidy, well-maintained manner. No more than two (2) motor vehicles may be parked or stored pursuant to this sub-paragraph unless specifically authorized in writing by Council.
- iii) a person may park or store a motor vehicle on property upon which no building is located with the prior written authorization of Council.

#### Complaint

5. (a) Any Designated Officer of the Municipality may determine a violation of this by-law; or
- (b) any person may allege a violation of this by-law by making a complaint with the Designated Officer in such form and with such particulars as the Designated Officer may from time to time require.

### Inspection

6. 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

7. 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 and required remedy 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 notice of contravention, if any, provided under section 6(a) above, or if in his or her discretion no such warning notice is required, the Designated Officer shall issue a written order which shall:
    - (i) describe the contravention, the required remedy and 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 or enforced under *The Municipal Act*;
    - (iii) advise of the process of appeal; and
    - (iv) be substantially in the form attached as Schedule "B".

### Appeals

8. 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".
9. Upon receipt of any appeal in the required form, the Chief Administrative Officer of the Municipality or his delegate shall cause a copy thereof to be forwarded to the Council forthwith and the Council shall entertain such appeal within forty (40) days of receipt of the 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 11 below no later than five (5) days prior to the appeal hearing.



10. The Council shall determine an appeal within twenty-one (21) 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

11. Any order issued by the Designated officer under Subsection 7(b) and a notice of hearing issued under Section 9 hereof and a notice of disposition under Section 10 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 affected by order.
12. 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 three (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.

#### Summary Convictions Proceedings

13. If any violation of this By-Law continues after the appeal period hereinbefore referred to expires to the interested party who appealed does not comply with the appeal decision that the Municipality may enforce this By-Law by commencing a prosecution as provided under "*The Summary Convictions Act*" (Manitoba)

#### Enforcement

14. The cost of actions or measures taken by the Municipality to carry out the terms of an order issued by the Designated officer is 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*.
15. 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 of not less than \$100.00 but not exceeding \$2,000.00, or in the case of an individual, to imprisonment for a term not exceeding six (6) months, or to both such a fine such and such an imprisonment.

16. 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 15 above.
17. 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.

#### Removal of Motor Vehicle

18. Any motor vehicle kept or stored in contravention of this By-law may be removed from the property, towed, impounded and stored by the Municipality.

#### Destruction or Sale of Motor Vehicle

19. Any motor vehicle removed from the property by the Municipality pursuant to this By-law may be destroyed or sold at any time thirty (30) days after the date of removal of the motor vehicle from the property. In the event that such motor vehicle is sold, the Municipality shall be entitled to recover from the sale price all fines, fees and charges permitted hereunder. In the event that the sale proceeds shall exceed the aggregate of all fines, fees and charges, any remainder shall be paid to the owner of the motor vehicle. In the event that the sale proceeds are less than the aggregate of all fines, fees and charges hereunder the Municipality can collect such deficiency in any manner permitted under *"The Municipal Act"*

#### Redemption of Motor vehicle

20. A motor vehicle removed pursuant to this By-law may be released to the owner thereof, or to the owner, occupant or person in charge or control of the property from which the motor vehicle was removed, upon the payment in full of the Penalties and Charges prescribed in this By-law within thirty (30) days of the removal of the motor vehicle.

#### Penalties and Charges

21. In addition to any fines imposed pursuant to sections 15 and/or 16 hereof, the Municipality shall impose the following penalties and charges in respect of each motor vehicle removed in accordance with this By-law:
  - (a) \$100.00 for the removal and towing of the motor vehicle; and
  - (b) \$20.00 per day for impoundment and storage; and

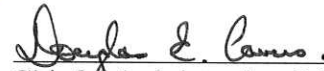
(c) if applicable, \$150.00 for the destruction and disposal of the motor vehicle.

Adding of Penalties and Charges to Taxes

22. The Penalties and Charges imposed pursuant to this By-law are a debt owing to the Municipality jointly and severally by the owner of the motor vehicle and the owner of the property and may be collected in any manner in which a tax may be collected or enforced under *The Municipal Act*.

Dated and passed in Council assembled at the Rural Municipality of Hanover in the Province of Manitoba this 8th day of March, 2006.

  
\_\_\_\_\_  
Reeve

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

Read a first time this 22nd day of February , 2006

Read a second time this 8th day of March , 2006

Read a third time this 8th day of March , 2006

SCHEDULE "A"

Date: \_\_\_\_\_

File: \_\_\_\_\_

\_\_\_\_\_  
Name and address  
\_\_\_\_\_

Dear Sir/Madam:

RE: Rural Municipality of Hanover Unsightly/Unsafe Property Parking By-law

Acting upon a written complaint, the Designated officer had cause to inspect your property at

\_\_\_\_\_ in The Rural Municipality of Hanover.

(Civic and legal address)

Upon inspection of the property, it is apparent that a violation exists in accordance with Rural Municipality of Hanover By-law No. \_\_\_\_\_ due to \_\_\_\_\_

Therefore, the Rural Municipality of Hanover 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 action or measures necessary to bring the property into compliance with By-law No. \_\_\_\_\_ and the costs of such actions or measures are an amount owing to The Rural Municipality of Hanover 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 Rural Municipality of Hanover 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 \_\_\_\_\_

Sincerely,

Designated Officer

SCHEDULE "B"

Date: \_\_\_\_\_

File: \_\_\_\_\_

\_\_\_\_\_  
Name and address  
\_\_\_\_\_

RE: Unsightly/Unsafe Property at \_\_\_\_\_

[Further to my letter of \_\_\_\_\_,] this is to advise you that an [a second]  
(date)

inspection of your property at \_\_\_\_\_ conducted on \_\_\_\_\_  
(Civic and legal Address) (Inspection date)

found that it is [continues to be] in violation of The Rural Municipality of Hanover  
Unsightly/Property Parking By-Law No. \_\_\_\_\_, (the "By-Law")

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 \_\_\_\_\_. In the event that you do not comply with this order, please note  
(Date)

that Section 12 of the By-law provides as follows:

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. 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 Rural Municipality of Hanover 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,

SCHEDULE "C"

Unsightly/Unsafe Property Parking By-Law No. \_\_\_\_\_, of The Rural Municipality of Hanover

IN THE MATTER of the Unsightly/Unsafe Property Parking By-Law No. \_\_\_\_\_ of The Rural Municipality of Hanover

NOTICE OF OBJECTION

To: The Rural Municipality of Hanover

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

of The Rural Municipality of Hanover from the Order to \_\_\_\_\_  
(Nature of Remedy/Repair)

made by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
(name and title)

\_\_\_\_\_, 200\_\_ respecting the premises known as \_\_\_\_\_

Dated at \_\_\_\_\_, Manitoba, this \_\_\_\_\_, day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Signature of Appellant

\_\_\_\_\_  
Print Name and Address