

TOWN OF TEULON

BY-LAW NO. 4/12

BEING A BY-LAW OF THE TOWN OF TEULON RESPECTING UNSIGHTLY PROPERTY WITHIN THE TOWN.

WHEREAS The Municipal Act reads in parts as follows:

Section 232 (1) "A Council may pass by-law 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-law:'

Section 232 (2) "Without limiting the generality of subsection (1) a Council may in a by-law passed under this Division

- (a) regulate or prohibit;
- (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."

Section 233 "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, odors, unsightly property, fumes and vibrations."

Section 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 contraventions of by-law, including
 - (i) creating offenses
 - (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 enforced 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 sub-clause (iv);
 - (vi) imposing a sentence of imprisonment..."

Section 242 (1) "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."

Section 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 demolish of a structure that has been erected in contravention or 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 expenses of the person.”

Section 243 (1) (2) “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.”

Section 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.”

Section 244 (1) “A person who receives a written order under section 242 or 243 may request the council to review the order by written notice within 14 days after the date the order is received, or such longer period as a by-law specifies.”

Section 244 (2) “After reviewing the order, the council may confirm, vary, substitute or cancel the order.”

Section 245 (1) “A municipality may take whatever action or measures are necessary to remedy a contravention of a by-law or this or any other Act that the municipality is authorized to enforce or to prevent a re-occurrence of the contravention, if

- (a) the designated officer has given a written order under section 242;
- (b) the order contains a statement referred to in clause 242(2)(b);
- (c) the person to whom the order is directed has not complied with the order in the time specified in the order; and
- (d) the appeal period respecting the order has passed or, if an appeal has been made, the appeal has been decided, and it allows the municipality to take the action or measures.”

Section 245 (2) “If the order under section 242 directs that premises be put and maintained in a sanitary condition, the municipality may, under this section, close the premises and use reasonable force to remove the occupants.”

Section 245 (3) “The costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who contravened the Act or by-law.”

Section 246 (1) “a municipality may take whatever actions or measures it considers necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property if
(a) the municipality has given a written order under section 243;
(b) the order contains a statement referred to in clause 243(2)(b);
(c) the person to whom the order is directed has not complied with the order within the time specified in the order; and
(d) the appeal period respecting the order has passed or, if an appeal has been made, the appeal has been decided and it allows the municipality to take the action or measures.”

Section 246 (2) “If a structure is being removed or demolished by a municipality under this section, the municipality may use reasonable force to remove occupants.”

Section 246 (3) “The costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who was required to do something by the order under section 243.”

Section 249 (2) “Where a contravention continues for more than one day, the person is guilty of a separate offence for each day it continues.”

AND WHEREAS as the Town of Teulon deems it necessary to pass a by-law prohibiting and rectifying unsightly property:

AND WHEREAS it is deemed expedient to pass a By-law for the purposes 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 Town of Teulon.

NOW THEREFORE THE COUNCIL OF THE TOWN OF TEULON, IN OPEN SESSION, DULY ASSEMBLED, ENACTS A BY-LAW AS FOLLOWS:

1. Definitions

- a) “**council**” means the council of the Town of Teulon.
- 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 persons**” 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 Town of Teulon.
- 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 of 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.
- h) “**person**” means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular.
- i) “**property**” means any land as defined in The Municipal Assessment Act within the Municipality whether or not there is situation thereon a dwelling house or any other building.
- j) “**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.

- k) “**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.
 - l) “**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. THAT this by-law shall be referred to as the “Unsightly Property By-law”.
- 3. THAT in this by-law, “Designated Officer” shall mean an 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.
- 4. THAT this By-law applies to all property and to all occupiers and owners of property within the Town of Teulon.
- 5. THAT 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 household appliances, whether or not the same are capable of operation;
 - e) The growth of grass to a length which in the opinion of the designated officer is unsightly;
- 6. THAT any person may allege a contravention of this By-law by filing a complaint with the Designated Officer in such form and with such particulars as the Designated Officer may from time to time require.
- 7. THAT upon receipt of an alleged contravention as aforesaid, the Designated Officer shall inspect all property alleged to be in contravention of this By-law, in such manner as shall be reasonably necessary in order to determine whether or not there has been a contravention of this By-law.
- 8. 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.
- 2. THAT where inspections reveal a contravention of any provision of this by-law, the Designated Officer:
 - (a) may in his or her discretion give written notice of the contravention of the occupier and /or owner of the property by registered mail or by personal delivery substantially in the form attached hereto as Schedule “A” to this By-law.
 - (b) if the contravention continues following the written notice, if any, provided in subsection 8.(a) above, or if in his or her discretion no such warning notice is provided the Designated Officer shall issue a written Order, in the manner specified in Section 10, which shall:
 - (i) specify the action or measures necessary to remedy the contravention
 - (ii) specify the time within which compliance shall be required;
 - (iii) Advise that should compliance not be effected within the specified time, the Town may undertake the remediation of the contravention 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;
 - (v) Be substantially in the form attached hereto as Schedule “B” to this By-law.

3. THAT the written order issued by the designated officer shall state a time within which the owner 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 Town'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 of 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 receipt of an appeal in the required form, the C.A.O. shall cause a copy thereof to be forwarded to Council. The Council shall entertain such appeal within thirty (30) days of the receipt of same by holding a hearing. A written notice of the hearing shall be issued to Council and shall be served upon the persons and in the manner specified in section 16 below no later than five (5) days prior to the hearing of the appeal.
8. THAT the Council shall determine an appeal within 10 days of a hearing and shall serve a written notice of disposition forthwith upon determination, upon the interested persons. 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.
9. Any Order issued by the Designated Officer under section 9 and a notice of appeal hearing under section 14, 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 of any order alleging a contravention of section 5 (b) (unsafe structure), the mortgagee, if any;of the property affected by the order.
10. 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.
11. 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 (6) months or to both such a fine and such an imprisonment.
12. 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 the summary conviction, to the penalties for which provision is made in Section 15 above.

13. 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.

14. THAT By-law No. 4/04, being the Vacant and Derelict Buildings Bylaw, shall have precedence and regulatory authority over any matter that may be in dispute with this by-law.

DONE AND PASSED, in open session at the Town of Teulon this 8th day of May, 2012.

Mayor

Chief Administrative Officer

Read a first time this 10th day of April, 2012.

Read a second time this 8th day of May, 2012.

Read a third time this 8th day of May, 2012.



SCHEDULE "A"
By-law No. 4/12

FILE NO. _____

Date _____

(Name)

(civic and mailing address)

Dear Sir/Madam;

Re: Town of Teulon

Unsightly Property By-law

Acting upon a complaint, the Designated Office had cause to inspect your property at
_____ in the Town of Teulon.

Upon inspection of the property, it was apparent that a contravention exists in accordance with the Town of Teulon Unsightly Property By-law No. 4/12 due to the following described condition.

Description of condition causing contravention

Therefore, the Town directs that you rectify the condition by the following described actions/measures.

Description of actions/measures to rectify the condition and contravention

The above described actions/measures to rectify the condition and contravention **must be undertaken and completed on/or before** _____.
(date)

In accordance with Section 239(1) of The Municipal Act, I will enter onto the subject property on _____ (date) to conduct a second inspection. If there has been no compliance with this notice, an Order may be issued authorizing the Town to take actions or measures necessary to bring the subject property into compliance with By-law No. 4/12. The costs of such actions or measures are an amount owing to the Town by the owner of the property. In addition to all other rights of collection which the Town may have at law, such amounts may be collected by the Town in the same manner as a tax may be collected or enforced under The Municipal Act.

Your cooperation and compliance in this matter is appreciated.

If you have any questions, please contact the writer at _____.

Sincerely,
Town of Teulon

Designated Officer.



SCHEDULE “B”
By-law No. 4/12

FILE NO. _____

Date _____

(Name)

(civic and mailing address)

Dear _____:

Re: Unsightly Property at

(civic and legal address)

Further to my letter of _____ (date), this is to advise that an inspection of your property at _____ (civic and legal address) conducted on _____ (inspection date) found that it is (continues to be) in violation of the Town of Teulon Unsightly Property By-law No. 4/12.

Specifically, the property is in contravention because _____
(Description of condition/contravention)

Under the authority of Section 242(1) of The Municipal Act, you are hereby ordered to undertake and complete the following described actions/measures to remedy the condition and contravention on/or before _____ (Date).
Description of actions measures to be undertaken and completed to
remedy the condition/contravention

In the event you do not comply with this Order, the Town of Teulon shall undertake the actions and measures to remedy the conditions and contravention.

Please note that section 17 of By-law No. 4/12 provides as follows:

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.

You may appeal this Order **IN WRITING** by filing with the Chief Administrative Officer of the Town of Teulon at any time before the date of compliance of this Order has elapsed (_____) (Date of compliance) an appeal substantially in the form attached hereto (Schedule “C” to By-law No. 4/12).

Please govern yourself accordingly.

Sincerely,
Town of Teulon

Designated Officer



SCHEDULE “C”
By-law No. 4/12

Unsightly Property By-law No. 4/12

IN THE MATTER of the Unsightly Property By-law No. 4/12 of the Town of Teulon.

NOTICE OF APPEAL

Date: _____

To: The Town of Teulon

PLEASE TAKE NOTICE that the undersigned appellant, pursuant to section 12 of By-law No. 4/12, hereby appeals to the Council of the Town of Teulon Order No. _____, dated _____, to _____
(nature of action/measures ordered)

Respecting the property known as _____
(civic and legal address)

Reasons for Appeal (please provide information)

Dated at Teulon, Manitoba this _____ day of _____, 20____

Signature of Appellant

Address

Name of Appellant **PRINT**

Telephone No. _____

Fax No. _____

Email _____