

MUNICIPALITY OF PEMBINA
BYLAW NO. 10-2024

BEING A BYLAW to maintain Municipal Right of Way (ROW) and to regulate nuisances or encumbrances that impact the safety and ongoing operations and maintenance of Municipal roads, drainage and other right of ways.

WHEREAS subsection 232(1)(f) of *The Municipal Act* provides that a Council may pass by-laws for municipal purposes respecting property adjacent to highways or municipal roads, whether the property is publicly or privately owned;

AND WHEREAS subsection 234(c) without limiting the generality of clause 232(1)(f), a by-law passed under that clause may include provisions respecting signs, survey monuments, landscaping and setbacks, including the construction, repair and removal of fences;

AND WHEREAS it is deemed expedient to pass a bylaw for the purpose of maintaining Municipal right of ways and regulating nuisances and encumbrances that impact the safety and ongoing operation and maintenance of Municipal roads, drains and right of ways located throughout the Municipality of Pembina.

NOW THEREFORE, the Council of the Municipality of Pembina, in council duly assembled, hereby enacts as follows:

SHORT TITLE

1. **THAT** this By-law may be referred to as the "Right of Way Bylaw"

DEFINITIONS

2. **THAT** for the purpose of this by-law the following definitions shall apply:

- a) "Council" means the Council duly elected in the Municipality.
- b) "Designated Officer" means the Chief Administrative Officer, Bylaw Enforcement Officer or other designated employee as appointed by Council to enforce or administer all or part of this bylaw.
- c) "Municipality" means the Municipality of Pembina.
- d) "Occupier" means occupier as defined in *The Municipal Assessment Act*.
- e) "Owner" in the case of any property means the registered owner of the property according to the current assessment record 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 real property as defined in *The Municipal Assessment Act* within the Municipality of Pembina whether there is situated thereon a dwelling, house or any other building.
- h) "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 unacceptable or offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.
- i) "Temporary fence" means a type of fence that is designed to be easily installed and removed for short-term use, constructed of fibre glass and less than 1" in diameter. They are often modular, allowing for quick setup and reconfiguration.

PROHIBITIONS

3. THAT no person shall:

- a) obstruct, encumber, injure or foul any municipal road, road allowance, right of way or drain in the Municipality of Pembina;
- b) remove snow from their property by any means and deposit such snow or any part thereof upon the traveled portions of a municipal road, road allowance, right of way or drain.
- c) Throw, place, deposit or leave any rubbish or other substance whatsoever on a municipal road, right of way or public place.
- d) add any fences and/or permanent structures on any municipal road, right of way or drainage ditch within the Municipality.
- e) obstruct the road in any manner which causes the accumulation of snow or drift to impede or obstruct travel, the view of traffic or obstruct in any way the movement of snow-clearing equipment under the jurisdiction of the Municipality.

OFFENSE AND PENALTIES

4. THAT:

- a) any person, owner or occupier who does or causes another person to be in violation of this bylaw shall be given written notice to rectify the violation within a designated time frame. Notice shall be given either in person, by mail or delivery service. If sent by mail or delivery service, it shall be considered delivered within 5 business days from the date of the mailing.
- b) in the event the violation is not rectified by the stated time in the notice, the Municipality may take corrective action for removal of the encumbrance, and all costs incurred by the Municipality shall be assessed to the person and/or persons in violation.
- c) 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.
- d) 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*.

EXTRAORDINARY CIRCUMSTANCES

5. THAT temporary fences within the right of way must have written approval annually from the Municipality and must be removed at the request of the Municipality. A request for a temporary fence must be submitted through a request for service.
6. THAT the Right of Way setback for a temporary fence shall be 20 feet from the outer road edge.
7. THAT the Municipality is not responsible for any damage caused to the fence if caused by the Municipality during regular maintenance to the right of way.
8. THAT notwithstanding anything stated in this bylaw, the Municipality may take whatever actions or measures necessary in the event of an emergency.

RESOUND

9. **THAT** policy Infra 1-20 passed on the 9th of January, 2020 be hereby rescinded.
DONE AND PASSED by Council of the Municipality of Pembina duly assembled in
Manitou, in the Province of Manitoba, this 12th day of December, 2024.



Glenn Shiskoski, Reeve



Chief Administrative Officer

Read a first time this 14th day of November, 2024
Read a second time this 12th day of December, 2024
Read a third time this 12th day of December, 2024