

MUNICIPALITY OF PEMBINA
BYLAW NO. 4/2022

BEING A BYLAW of the Municipality of Pembina to establish a minimum standard to regulate nuisances, abandoned and derelict, and unsightly unsafe property within the LUD of Darlingford, the LUD of La Riviere and the Town of Manitou.

WHEREAS the Municipal Act read in part as follows:

- 232(1) A Council may pass bylaws 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 of things in or on private property;
 - (o) the enforcement of bylaws;
- 232(2) Without limiting the generality of subsection (1), a Council may in a bylaw 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 bylaw under clause 231(1)(c) (activities or things in or on private property may contain provision 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 topsoil; 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 bylaws), a bylaw passed under that clause may include provisions;
- (a) providing for procedures, including inspections for determining whether bylaws are being complied with; and
 - (b) remedying contraventions of bylaws, 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 bylaw,
 - (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, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under subclause (iv),
- 242(1) If a designated officer finds that a person is contravening a bylaw of 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 bylaw, including the removal or demolition of a structure that has been erected or placed in contravention of a bylaw 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 expense of the person.

- 243(1) If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety of property, or because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by 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;
 - (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.

- 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.

AND WHEREAS it is deemed expedient to pass a bylaw 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 Municipality of Pembina;

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

1. **THAT** this By-law may be referred to as the "Unsightly Yard Bylaw",

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

“Council” means the Council of the Municipality of Pembina.

“Designated Officer” means an official appointed by Council to enforce this bylaw.

“Dwelling” includes any building or part of a building, covering or structure, the whole or any portion of which has been used, is used, or is capable of being used for the purposes of human habitation with the land and premises accessory to it and all accessory buildings, fences, or erections thereon or therein, and every dwelling unit within the building.

“Interested Person” means the owner, occupier or mortgagee of a property which is the subject of an order made under the authority of this bylaw.

“Insanitary Condition” means a condition or circumstance that:

- Is offensive; or
- Is, or may be, or might become injurious to health; or
- Prevents or hinders the suppression of disease; or
- Contaminates or pollutes, or may contaminate or pollute food, air, or water; or
- Might render food, air or water injurious to the health of any person and includes nuisance and any circumstance or condition declared to be an Insanitary Condition under this bylaw.

“Mortgagee” in the case of any property means any person holding a registered real property mortgage against the property according to the record of the land titles office of the area within which the property is situated.

“Non-Conformance”:

- **“Immediately Dangerous” Non-Conformance** means a condition which does not comply with the standards established by this bylaw and which in the opinion of the Designated Officer is unsafe, or dangerous, or injurious to health.
- **“Hazardous” Non-Conformance** means a condition which does not comply with the standards established by this bylaw and which in the opinion of the Designated Officer is offensive and may become unsafe, or dangerous, or offensive or injurious to health.
- **“Non-Hazardous” Non-Conformance** means a condition which does not comply with the standards established by the bylaw and is other than an “Immediately Dangerous” Non-Conformance or “Hazardous” Non-Conformance.

“Occupier” in the case of any property means a person in actual or constructive possession of the property pursuant to a lease, tenancy license or other right to occupy.

“Order” means a notice of Non-Conformance and Order to clear yards of refuse and debris pursuant to this bylaw.

“Premises” include a building or accessory building and any lands on which a building is situated.

“Property” means any land as defined in *The Municipal Assessment Act* within the Municipality whether there is a dwelling, or any other building situated on it.

“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.

“Standards” means the standards prescribed in this bylaw for the physical condition and structure and properties, or parts thereof, together with the surrounding land.

“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.

“Unightly 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.

3. **THAT** this bylaw applies to all property and to all owners and occupiers of property within the LUD of Darlingford, the LUD of La Riviere and the Town of Manitou.
4. **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:
 - (i) rubbish;
 - (ii) unsafe structure(s);
 - (iii) unsightly property;
 - (iv) the storage of other 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 and/or automobile repair;
 - (v) the storage of household appliances, whether the same are capable of operation;
 - (vi) the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a nuisance to adjoining properties;
 - (vii) the growth of grass to a length which in the opinion of the designated officer is unsightly; or
 - (viii) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof.
5. **THAT** any person who makes a complaint alleging an offense under this bylaw against another person shall provide to the Municipal Office their name, address, and telephone number. It shall be at the discretion of the Municipal Office whether to proceed on any complaint or information.
6. **THAT** upon the receipt of a complaint, as mentioned above, the designated officer may inspect all property alleged to be in violation of this bylaw, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this bylaw.

The designated officer may on their own initiative inspect any property within the LUD of Darlingford, the LUD of La Riviere and the Town of Manitou in such a manner as shall be responsibly necessary in order to determine whether there has been a violation of this bylaw.

7. **THAT** where inspections reveal a violation of any provision of this bylaw, the designated officer:
 - a) May issue a Notice of Violation attached as “Schedule A”.

The Notice of Violation shall contain:

 - (i) The name of the registered owner and/or Occupier, if any;
 - (ii) A description and location of the premises;
 - (iii) The actions required to rectify the non-conformance, including an expected completion date;
 - (iv) The degree of non-conformance as defined in Section 2.

- b) In the event that the action specified in the Notice of Violation has not been taken by the specified date, and Order to Comply attached as "Schedule B", will be directed to the registered owner and occupier of the property and will contain:
- (i) a statement of the action required to be taken in order to remedy the Non-Conformance, including, if applicable, an order to demolish all or part of the premises;
 - (ii) a declaration that the degree of Non-Conformance is either "Immediately Dangerous", Hazardous" or "Non-Hazardous" as defined herein;
 - (iii) the final dated specified for achieving conformance as described in section 6(c) below;
 - (iv) the final date for filing a notice of appeal to the order by the registered owner and/or occupier.
 - (v) A copy of the Notice of Appeal attached as "Schedule C"
 - (vi) A copy of the penalty provision of this bylaw;
 - (vii) Such other information or direction as the Municipality deems appropriate.

If the Non-Conformance is determined by the Designated Officer to be "Immediately Dangerous", the Notice of Violation is eliminated and an Order of Comply is issued directly.

- c. With respect to Section 6(b)(iii) above, the time limit to achieve conformance from the date of service of the Notice of Violation and Order to Comply shall be as follows:
- (i) Immediately in cases of Immediate Dangerous Non-Conformance
 - (ii) 10 days, in cases of Hazardous Non-Conformance
 - (iii) 4 weeks, in cases of Non-Hazardous Non-Conformance;
- These items may be extended at the discretion of the Designated Officer provided that the registered owner and/or occupier, if any, are making reasonable efforts to conform.
- d. The Municipality shall serve a true copy of any Notice of Violation and Order to Comply issued under this bylaw on the owner(s) and/or occupier(s) of the subject premises in one or more of the following manners:
- (i) Personal service to the owner(s) and/or occupier(s)
 - (ii) Certified or Registered mail service of the owner(s) and/or occupier(s) to the last known address;
 - (iii) Attaching Notice or Order to a prominent place on the subject premises;

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 5 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 a shown according to the records of the Land Titles Office for the area with which the property is situated.

8. a. A person served with an Offence Notice pursuant to this bylaw may appeal such Offence Notice to the CAO within fourteen (14) days of the issuance of such Offence Notice on the Notice of Appeal form attached as Schedule "C".
- b. Upon the receipt of an appeal on the required form, the CAO shall forward to copy to Council. The Council shall entertain such appeal within forty (40) days of the receipt of same by holding a hearing. A written notice of the hearing shall be issued by Council and shall be served upon the persons no later than five (5) days prior to the hearing of the appeal.

- c. Council shall determine an appeal within ten (10) days of a hearing and shall serve a written notice of disposition forthwith upon determination, upon the interested persons. The Council may, by resolution:
 - (i) Confirm the Order of the Designated Officer
 - (ii) Vary the Order of the Designated Officer in any respect; or
 - (iii) Set aside the Order of the Designated Officer

- 9. a. Any person who violates this bylaw or contravenes, disobeys or refuses or neglects to obey or comply with any order made under this bylaw is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$1,000.00.

- b. 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 or occupier 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. **THAT** By-law No. 14/2018 passed on the 22nd day of November, 2018 be hereby repealed.

DONE AND PASSED by Council of the Municipality of Pembina duly assembled in Manitou, in the Province of Manitoba, this 14th day of July, 2022.



Glenn Shiskoski, Reeve



Wes Unrau, Chief Administrative Officer

Read a first time this 9th day of June, 2022.
Read a second time this 14th day of July, 2022.
Read a third time this 14th day of July, 2022.

**MUNICIPALITY OF PEMBINA
SCHEDULE "A"
TO BY-LAW NO. 4/2022**

Notice of Violation Under Unsightly Yard Bylaw 4/2022 <small>(Section 239 of the Municipal Act)</small>			
Property Location:			
Legal Description:			
Date of Notice:	File No:		
Registered Owner:	Occupant:		
Date of Inspection:			
Description of Non-Conformance(s):	Degree of Non-Conformance: Hazardous Non-Hazardous		
Manner of Rectification:	Date to be Completed:		
<p>In accordance with Section 239(1) of the Municipal Act, the Municipality will enter onto the Property 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 the bylaw. 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 at law, the Municipality may collect such amounts in the same manner as a tax be collected or enforced under the Municipal Act.</p>			
Date of Second Inspection:	If you have questions, please call:		
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-top: 1px solid black; border-bottom: 1px solid black; text-align: center;">Designated Officer</td> <td style="width: 50%; border-top: 1px solid black; border-bottom: 1px solid black; text-align: center;">Signature</td> </tr> </table>		Designated Officer	Signature
Designated Officer	Signature		

**MUNICIPALITY OF PEMBINA
SCHEDULE "B"
TO BY-LAW NO. 4/2022**

Order to Comply with Unightly Yard Bylaw 4/2022 <small>(Section 242 of the Municipal Act)</small>		
Property Location:	File No:	
Legal Description:		
Registered Owner:	Occupant:	
Further to the Notice sent to you on _____, a second inspection of your property found that it continues to be in violation of the Municipality of Pembina Unightly Yard Bylaw 4/2022.		
Description of Non-Conformance(s):		
Order to Comply: Under the authority of Section 242(1) of <i>The Municipal Act</i> , you are hereby ordered to make the following changes to bring your property into compliance with the Municipality of Pembina's Unightly Yard Bylaw 4/2022.		
Action required to remedy non-conformances:		
Date of Order:	Type of Non-Conformance: Immediately Dangerous (Immediately) Hazardous (10 days) Non-Hazardous (28 days)	Date to be Completed:
Non-Compliance with this order: In the event that you do not comply with this Order, please note that the costs of actions or measures taken by the Municipality to carry out the terms of an Order issues 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, the Municipality may collect such amount in the same manner as a tax may be collected or enforced under the Municipal Act.		
If you have questions, please call:		
<div style="display: flex; justify-content: space-between; margin-top: 20px;"> _____ _____ </div>		
Designated Officer Signature		
For Office Use Only: Notice of Correction of Non-Conformances: Completed by Owner/Occupant on _____ Not Completed and Objection filed on _____ Result of Appeal and action taken:		
_____	_____	
Date	Signature	

**MUNICIPALITY OF PEMBINA
SCHEDULE "B"
TO BY-LAW NO. 4/2022**

**Notice of Appeal
with
Unsightly Yard Bylaw 4/2022**

Date: _____

IN THE MATTER OF the Unsightly Yard Bylaw 4/2022 of the Municipality of Pembina

To: The Municipality of Pembina

PLEASE TAKE NOTICE THAT the undersigned appellant, pursuant to Section 7 of Bylaw 4/2022, hereby appeals to the Council of the Municipality of Pembina.

Order No. _____ dated _____, to appeal _____
(Nature of action/measure ordered)

Respecting premises known as _____

REASON FOR APPEAL:

Made by _____ on the _____ day of _____, 20____

Dated at the Municipality of Pembina this _____ day of _____, 20____