

**TOWN OF NEEPAWA
BY-LAW NO. 3166-16**

**BEING A BY-LAW OF THE TOWN OF NEEPAWA TO ESTABLISH A MINIMUM STANDARD
OF MAINTENANCE FOR DWELLINGS AND OTHER STRUCTURES, AND TO REGULATE
YARDS, NUISANCES, LITTER AND DERELICT VEHICLES**

WHEREAS The Municipal Act provides 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) 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.
- 236(1) Without limiting the generality of clause 232(1)(o), 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-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, 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 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 or 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.*

AND WHEREAS it is deemed expedient to pass a by-law for the purpose of maintaining a standard of maintenance for dwellings and other structures, and regulating and abating nuisances, derelict vehicles, litter and unsightly properties.

NOW THEREFORE the Council of the Town of Neepawa, in Council duly assembled, hereby enacts as follows:

PART ONE: DEFINITIONS & APPLICATION

1.0 DEFINITIONS

Abandoned Vehicle – a vehicle left deserted, in the open, without lawful authority for a period of fourteen (14) days on public land or on private land without the consent or knowledge of the landowner.

Animal and Agricultural Waste – manure, crop residues and like material from agricultural pursuits, stables, kennels, veterinary establishments and other such premises.

Construction and Demolition Waste – waste materials and rubble resulting from construction, remodeling, repair, demolition or fire in houses, commercial buildings, driveways, pavement and other structures.

Derelict property - means real property upon which is located a vacant dwelling or non-residential building that is not in compliance with the municipality's derelict building by-law.

Derelict Vehicle – any vehicle that is not in operating condition; may or may not be partly dismantled; cannot meet safety standards as legislated by the Province of Manitoba from time to time; does not have attached thereto, and exposed thereon, one or more license plates for the current registration year; is kept in the open; is kept primarily for the purpose of salvaging or selling parts therefrom, or for the eventual sale thereof as scrap metal; and includes the body or chassis of a used motor vehicle or all or some of the parts which have been removed.

Designated Officer - a by-law enforcement officer, building inspector, fire inspector, Manager of Operations, Chief Administrative Officer (CAO), or any other person appointed by or acting for the Town of Neepawa and partially or wholly responsible for public safety, fire safety, building safety and property standards within the Town of Neepawa. Reference may also include a member of the Royal Canadian Mounted Police where necessary and applicable.

Dwelling – any building, part of a building, trailer, or other covering or structure, the whole or any portion of which has been used, is used, or is capable of being used for the purpose of human habitation with the land and premises appurtenant thereto and all accessory building, fences or erections thereon or therein, and every dwelling unit within the building.

Dwelling Unit – one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons with cooking, eating, living and sleeping facilities and with separate sanitary facilities.

Fence – a railing, wall or other means of enclosing a yard & includes barriers & retaining walls.

Garbage – Animal and vegetable waste, including food packaging material and residual food materials, resulting from the handling, preparation, cooking and serving of foods in households, institutions and commercial concerns; and market wastes resulting from the handling, storage and selling of foods in wholesale and retail stores and markets.

Industrial Refuse – wastes arising from, or incidental to the manufacture, processing or like operation in factories, processing plants, industrial processes and manufacturing operations and includes wastes such as putrescent garbage from food processing plants and slaughterhouses, condemned foods and products, ashes, and miscellaneous manufacturing wastes

Interested person - the owner, occupier or mortgagee of property which is the subject of an order made under the authority of this by-law.

Litter – animal and agricultural waste, ashes, construction and demolition waste, dead animals, garbage, industrial refuse, rubbish, solid waste or refuse, unlicensed vehicles, liquid waste, mechanical refuse, abandoned or unattended shopping carts, and special waste, including but not limited to street cleanings, containers, packages, bottles, cans or parts thereof, deserted or discarded articles, products or goods of manufacture and piled aggregate, fill, gravel, sand, clay or topsoil.

Mechanical Refuse – parts from (or) unusable, discarded or abandoned machinery, equipment or vehicles.

Metallic Waste – any waste material which is predominantly of metallic content and which may include farm machinery and household appliances.

Motor Vehicle - a vehicle not run upon rails that is designed to be self-propelled or propelled by electric power obtained from overhead trolley wires, but does not include a farm tractor, a self-propelled implement of husbandry or a special mobile machine.

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.

Nuisance – any condition, which is or may become injurious or prejudicial to health or hinder the suppression of disease, or which is offensive.

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.

Order – a notice of non-compliance and order to demolish or repair a building, to clean up, or clear yards of refuse and debris, subject to this by-law.

Owner - means the registered owner of the land and premises and includes the person:

- i. for the time being managing or receiving the rent of the land or premises in connection with which the word "owner" is used, whether on their own account or as agent or trustee of any other person;
- ii. who would so receive the rent if such land and premises were let;
- iii. who is the vendor of such land under an agreement for sale who has paid any land taxes thereon after the effective date of the agreement;
- iv. for the time being, receiving installments of the purchase price of the land or premises in connection with which the word "owner" is used, sold under an agreement for sale whether on his own account or as an agent or trustee of any other person; or
- v. who would so receive the installments of the purchase price if such land or premises were sold under an agreement for sale.

Person - means any individual, firm, partnership, association, corporation, company or organization of any kind. Where the context requires shall include the plural as well as the singular.

Property - any land as defined in *The Municipal Assessment Act*, within the municipality, whether or not there is situated thereon a dwelling house or any other building.

Protective Surface – any layer of material over the structural surface of a building intended or required to protect the structural surface against deterioration or to decorate the structural surface, and without limiting the generality of the foregoing, includes paint, varnish, stucco, brick, or stone facing, wood or asphalt shingle and insulbrick siding or any other kind of siding.

Rubbish - 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 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 neighbourhood aesthetics.

Scrap Dealer – A person engaged in the recovery or processing of metals from manufactured items or the purchase of such metals for the purpose of resale.

Solid Waste or Refuse – useless, unwanted, or discarded solid materials resulting from normal community activities, including semi-liquid or wet wastes with insufficient moisture and other liquid to be free flowing.

Special Mobile Machine – A vehicle not designed or primarily used for the transportation of person, chattels or materials; designed for moving earth or structural materials at low speeds off highways; is incidentally operated or moved on the highway and used primarily for the purpose of construction of buildings or other structures, or the construction and maintenance of highways, but does not include a dump truck, truck mounted transit mixers and other truck mounted machines.

Special Waste – hazardous wastes consisting of any waste that may present a hazard to collection or disposal personnel, or others, and includes wastes of a pathological, explosive, highly flammable, radioactive, or toxic nature.

Standards – means the standards prescribed in this by-law for the maintenance and improvement of the physical condition and of any building or other structure or properties, or parts thereof, together with the surrounding lands.

Structure – anything constructed or erected with a fixed location on or below the ground, or attached to something having a fixed location on the ground and includes buildings, walls, fences, signs, billboards, poster panels, light standards, excavations or holes, and similar items.

Unsanitary Condition – a condition or circumstance that is offensive; is or may be, or might become injurious to health; prevents or hinders the suppression of disease; contaminates or pollutes, or may contaminate or pollute food, air, 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 unsanitary condition under this by-law.

Unsightly property - property having any one or more of, but not limited to, the following characteristics:

- i. The accumulation of junk, filth, litter, brush, discarded materials, refuse, rubbish, garbage or graffiti;
- ii. Fences characterized by holed, breaks, rot, crumbling, cracking, peeling or rusting;
- iii. Landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- iv. A lowering in quality of the condition or appearance of a building or structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use of lack or maintenance; or
- v. Any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighbourhood.

Vehicle – means a device in, upon, or by which a person or things is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or trucks and includes an implement of husbandry that is not a motor vehicle and a special mobile machine. Includes watercraft, aircraft, trailers, wagons, flatbeds, etc.

Vehicle Salvager – means a person engaged in the dismantling of motor vehicles or maintaining a facility for the dismantling of motor vehicles for parts.

2.0 LITTER ON PUBLIC PROPERTY

- 2.1 No person shall sweep, dump or otherwise deposit litter into any gutter, boulevard, street, or other public place without the permission of a designated officer.
- 2.2 Persons owning or occupying property shall keep the sidewalk and boulevard in front of and flanking, and the lane at the rear of their property, free of litter.

PART TWO: STANDARDS

1.0 PROPERTY STANDARDS (Unsightliness)

- 1.1 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, but not limited to:
- a. Litter;
 - b. Rubbish;
 - c. Unsafe structure(s)
 - d. Unsightly property
 - e. The storage of household appliances, whether or not the same are capable of operation; and or storage of furnishings;
 - f. The growth of weeds as identified in *The Noxious Weeds Act*, so that the same become a nuisance to the adjoining properties.
 - g. The growth of grass to a length in which, in the opinion of the designated officer, is unsightly, or of a height of no more than 25 centimeters.
 - h. Wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof;
 - i. Hedges, shrubs, trees & plants shall be planted & maintained in a manner to not:
 - i. Obstruct the safety of the public;
 - ii. Affect the safety of vehicular or pedestrian traffic;
 - iii. Constitute an obstruction of view for vehicular traffic;
 - iv. Wholly or partially conceal/ interfere with the use of any hydrant or water valves; or
 - v. Overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.

2.0 BUILDING AND OCCUPANCY STANDARDS

2.1 Drainage

No roof drainage or surface drainage shall be discharged on stairs or neighbouring property. A roof, including the fascia board, soffit, cornice and flashing shall be maintained in a watertight conditions so as to prevent leakage of water, and drainage shall be conveyed so as not to cause dampness in the walls, ceilings, or floors of an portion of the building itself or any adjacent building. Without limiting the generality of this section, the maintenance required thereby includes the repairing of eavestroughing and rainwater piping and using other suitable means.

2.2 Pest Prevention

Every building shall be maintained free of rodents, vermin and insects at all times; and all methods used for exterminating rodents, vermin or insects shall conform with generally accepted practice in the Town as determined by a designated officer.

2.3 Sound Structures

Every foundation wall forming part of a building shall be maintained in good repair and structurally sound so as to prevent undue settlement of the building or the entrance of moisture, insects or rodents. Where necessary, the foundation walls shall be so maintained by shoring of the walls, installing of subsoil drains at the footing, grouting masonry cracks and by parging and waterproofing.

Where any building is on a surface foundation and the designated officer is of the opinion that there is settlement or rotting of the beams or joists to such a degree as to adversely affect the occupation of the building, they may require the owner to hire at his/her own cost, a professional engineer to verify the structural integrity of the building in compliance with the provisions of the Manitoba Building Code and any amendments thereto.

Every part of a building shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any load to which it may be subject.

2.4 Exterior Surfaces and Openings in Dwellings and Structures

All exterior surfaces and openings shall be of materials which provide adequate protection from the weather and shall be maintained so as to not cause a substantial depreciation in property values in the immediate neighbourhood.

2.5 Structures, Porches, Sheds, Stairs and Fences

Every structure, porch, shed, stairway and fence, in or on any premise shall be maintained in good repair so that no component thereof is broken, loose, rotted, warped, out-of-plumb, off-level, or out of alignment to which it was designed or constructed or is without a protective surface.

2.6 Unsanitary & Hazardous Conditions

No person shall commit any nuisance nor permit or maintain any unsanitary condition in any premises within their control or management, nor shall they permit the existence of any condition, matter of thing which, in the opinion of a designated officer, provides or may provide food or harbourage for rodents, vermin and insects.

No person shall occupy or let to another for occupancy, any dwelling unit or portion thereof which is not clean and sanitary.

No dwelling, or any part thereof, or the lot upon which is situated shall be used as a place for storage, keeping or handling of any article dangerous or detrimental to life or health.

A designated officer is authorized under Section 239 of *The Municipal Act*, with or without the consent of the owner or occupier, to enter upon and inspect premises where there is in the opinion of the designated officer an apparent unhealthful or unsafe condition.

3.0 VEHICLES

3.1 Uncovered Vehicles

No person shall load a vehicle with litter such that the said litter may be readily disturbed by vehicular movement or wind, unless the said vehicle is so constructed as to totally enclose the load or the load is covered by a tarpaulin, netting or other device of adequate size and design so as to totally cover the load.

3.2 Vehicle Loads Causing Litter

No person shall drive or move any vehicle within the Town unless such vehicle is so constructed, loaded, or covered to prevent any load, contents, or litter from being blown or deposited upon any public place, public area, or private property.

3.3 Prima Facie Evidence

Whenever litter is thrown, deposited, dropped, blown, or dumped from any vehicle, it shall be prima facie evidence that the operator of said vehicle shall have violated this by-law.

4.0 DERELICT VEHICLES

4.1 No owner or occupier of property shall park or leave derelict vehicles, metallic waste, or mechanical refuse, on private property with or without the consent of the owner of the property.

4.2 The owner of a motor vehicle which is to be retired from service as a means of transportation shall not abandon such vehicle; or anything which formed part of a vehicle; or any metallic waste or mechanical refuse; on public or private property, but cause the

vehicle, waste or refuse to be transported to a compound, vehicle salvager or scrap dealer.

- 4.2 No person shall retain a derelict vehicle or anything which formed part of a motor vehicle or metallic waste on their property in the open air, and/or in public view for a period of more than six (6) months without written permission from the Council of the Town of Neepawa.
- 4.2 In no event shall the number of derelict vehicles per individual property exceed two (2).
- 4.2 The derelict vehicle(s) shall be parked in an unobtrusive place in the back yard of the property and the vegetation around the vehicle shall be cut and maintained in a manners that will ensure as much as possible the amenity of the neighbourhood.
- 4.3 In no event shall any derelict vehicle be parked on any one premise for a period of more than two (2) years. Such vehicles to be covered by a tarpaulin.
- 4.4 Any derelict vehicle, metallic waste or mechanical refuse, which is parked or left standing on private property in contravention of this by-law may, after the notice procedure having been followed pursuant to Part Four, and no appeal having been made or denied, may be removed from the property by the Town. Derelict vehicles, waste and refuse removed from properties by the Town may be impounded and stored in such facilities as the Town, by resolution of Council may determine.
- 4.5 Unless a derelict vehicle is taken out of impoundment, the Town may, upon the expiration of fourteen (14) days after the removal and impoundment, destroy or sell the derelict vehicle as its own property. The proceeds of which shall form part of the general revenue of the Town.
- 4.6 The Town of Neepawa shall be entitled to charge for costs and charges incurred for towing, impounding, storing, destroying or otherwise disposing of such derelict vehicle(s), waste and refuse, with said costs and charges the responsibility of the last owner or possessor of the said items, and to be recovered in a like manner as taxes or a debt, or both, at the option of the Town.
- 4.7 The owner, or the person entitled to the possession of a derelict vehicle(s) removed and impounded under Subsection 4.4 may take the derelict vehicle out of impound by first paying the Town, within fourteen (14) days of the date of impoundment, the charges outlined in Subsection 4.6 should the owner be permitted to keep the vehicle in the municipality.

5.0 MERCHANTS AND PROPRIETORS OF PLACES OF BUSINESS

- 5.1 Persons owning or occupying places of business shall keep the sidewalk and boulevard in front of and flanking, and the lane at the rear of their business premises free of litter.
- 5.2 Every proprietor of any place where chicken, pizza, hamburgers, hotdogs, French fries, popcorn, potato chips, chocolate, candy, soft drinks, ice cream, or other like foodstuff or refreshments are sold in cartons, containers or papers, and the business is carried on under such circumstances that cartons, containers or papers are discarded in the vicinity by patrons of the place shall keep their premises and all public and private lands, areas, streets, lanes or passageways within a distance of fifteen (15) metres from their premises free of all discarded cartons, containers, or papers by collecting and disposing of same.
- 5.3 Where a business described on subsection 5.2 is carried on in any place, all discarded cartons, containers and papers, or a kind used in the business, that are found within the fifteen (15) metre distance from the place pursuant to subsection 5.2 shall be presumed to have been used for the sale of goods sold in that place, and to have been discarded by patrons thereon.
- 5.4 No person shall in any public place abandon a shopping card or leave a shopping cart unattended.

6.0 WASTE RECEPTACLES

6.1 Placement & Servicing of Receptacles – Town Jurisdiction

The Town shall provide adequate litter receptacles as determined by the Manager of Operations in prominent and easily accessible locations in public places and shall be responsible for the servicing and maintenance of these receptacles.

6.2 Placement & Servicing of Receptacles in Public Areas

Owners and tenants in lawful control of a public area shall provide litter receptacles in appropriate and easily accessible locations and shall be responsible for the servicing and maintenance of these receptacles.

7.0 GRAFFITI

- 7.1 No person shall place graffiti or cause graffiti to be placed on any sidewalk, wall, building, fence, sign or any other structure or surface.

8.0 SIGNS

- 8.1 On all property, signs and any fastening or supporting members that are damaged, broken or excessively weathered or faded or that have a worn, peeled or cracked finish, shall be removed or refinished and put in a good state of repair so that the signs are free from defects or faded lettering.
- 8.2 Signs and sign structures that are not used for the purpose intended or not cared for or discarded, shall be removed from the property.
- 8.3 Signs shall be maintained so that the information conveyed by the sign by colour, form, graphic, illumination, symbol or writing is clearly legible.
- 8.4 Signs shall not be placed in such a way so as to cause an obstruction, distraction or impede pedestrian or vehicle traffic

PART THREE: GENERAL REQUIREMENTS

1.0 GENERAL DUTIES AND OBLIGATIONS

- 1.1 The Owner of Every Building shall:
- Repair and maintain the building in accordance with the standards; or
 - If the building is a dwelling, demolish the whole or the offending part thereof that is not in accordance with the standards.
- 1.2 Where a designated officer has placed or caused to be placed, a copy of an order upon any premises under the authority of this by-law, no person shall remove such copy of the order except with the consent of a designated officer.
- 1.3 All repairs to a building shall be made in a manner accepted as good workmanship in the trade concerned, and with materials suitable and sufficient for the purpose, and in compliance with the Manitoba Building Code.
- 1.4 A designated officer may condemn, close up and prevent the occupancy of any dwelling found by him or a health officer to be in an unsanitary and/or unsafe condition.
- 1.5 Where an owner of any dwelling fails to make the dwelling conform to standards or fails to demolish all or part of a dwelling as directed by a designated officer, the Town may make the dwelling conform or may demolish all or any part of the dwelling and may add the cost of the work to the tax roll as taxes for the current year, and collectable as taxes.

PART FOUR: INVESTIGATIONS & INSPECTIONS

- 1.0 Investigations and inspections under this by-law shall be completed by a designated officer(s), who shall exercise their right of access to the property in order to determine if there is a contravention of the provisions of this by-law. Investigations and inspections shall be on a complaint basis, and/or a regular patrol of the Town.

PART FIVE: ENFORCEMENT & PENALTIES

- 1.0 Where a designated officer has reasonable grounds to believe that an offence has been committed, or that a contravention of this by-law exists, all actions and remedies to bring any such matter into compliance with this bylaw shall be governed under the provisions of Enforcement By-Law 3165-16, or the then current enforcement by-law in force and effect.

PART SEVEN: GENERAL

- 1.0 That this By-Law shall be more commonly known as "The Property Standards By-Law".
- 2.0 That By-Laws 2316, 2527 and 2999 of the Town of Neepawa are hereby repealed.

PASSED AND ENACTED as a By-Law of the Town of Neepawa by the Council thereof duly assembled in Neepawa, Manitoba this 15th day of November, A.D., 2016.

TOWN OF NEEPAWA


MAYOR


CAO

Read a first time this 1st day of November, A.D., 2016
Read a second time this 15th day of November, A.D., 2016
Read a third time this 15th day of November, A.D., 2016