

RURAL MUNICIPALITY OF EAST ST. PAUL

BY-LAW NO. 2006-15

A By-Law of The Rural Municipality of East St. Paul to regulate untidy and unsightly premises, to compel the abatement of nuisances and to regulate the depositing of materials on municipal roads.

WHEREAS "*The Municipal Act*", C.C.S.M., Chap. M225, and amendments thereto, provides that:

"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;.....
- (d) municipal roads, including naming the roads, posting the names on public or private property, and numbering lots and buildings along the roads;.....
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;.....
- (o) the enforcement of By-Laws.

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, odours, unsightly property, fumes and vibrations.

239 (1) If this or any other Act or a By-Law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or By-Law;
- (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

239(2) The designated office must display or produce on request identification showing that he or she is authorized to make the entry.

239(3) In an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things referred to in clauses (1)(a) and (c) without the consent of the owner or occupant.

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.

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.

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

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 reoccurrence 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 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.

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 occupants.

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.

246(1) A municipality may take whatever actions or measures it considers necessary to eliminate the danger to public safety cause 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.

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.

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.

250(1) A municipality is a corporation and, subject to this Act, has the rights and is subject to the liabilities of a corporation and may exercise its powers for municipal purposes.

287 Subject to this and any other Act, a municipality has the direction, control and management of municipal roads within its boundaries."

NOW, THEREFORE, The Rural Municipality of East St. Paul, in Council assembled, enacts as follows:

1. THAT this By-Law may be referred to as the "Rural Municipality of East St. Paul Nuisance By-Law.
2. THAT in this By-Law:
 - (a) "Person" means owner, agent, lessee or occupier of any land or premises within the Rural Municipality of East St. Paul;

(b) "Proper Officer of the Municipality" means the holder of such office in the service of the Rural Municipality of East St. Paul for the time being designated as responsible for the enforcement of this By-Law;

(c) "Untidy" means premises that are in a disorderly, slovenly and littered condition and are not kept in generally good order;

(d) "Unsightly" means premises that are unpleasant to look at or are aesthetically objectionable.

3. THAT no person shall:

(a) Permit the land or premises of which such person is the owner, agent, lessee or occupier, to be or to remain untidy or unsightly;

(b) Permit the land or premises of which such person is the owner, agent, lessee or occupier, to be or to remain a nuisance;

(c) Permit any building, structure or erection of any kind whatsoever, or any excavation, depression, drain, ditch, watercourse, pond, surface water, refuse or other matter or thing upon any private land, street or road, or in or about any building or structure of which such person is the owner, agent, lessee or occupier, to be or to remain untidy or unsightly or to be or to remain a nuisance or dangerous to public safety or health;

(d) Permit any substance or thing to be taken from a private driveway, lane or property and deposited on a street or road that is under the jurisdiction of the Municipality;

(e) (i) If the Proper Officer of the Municipality, upon due examination of the land and premises, is satisfied that the land and premises are untidy or unsightly or constitute a nuisance or any substance or thing has been deposited on a street or road under the jurisdiction of the Municipality, he may issue a notice, addressed to the owner, agent, lessee or occupier of the land and premises requiring the land and premises to be put into a condition satisfactory to the Proper Officer of the Municipality or the substance or thing to be removed from the street or road, within a certain period of time;

(ii) Any person receiving such notice may appeal same within 14 days of receiving the notice from the Proper Officer of the Municipality to the Council of the Rural Municipality of East St. Paul by writing to the Chief Administrative Officer;

(iii) The Council of the Municipality shall then hear the appeal and make such order varying, cancelling, revoking or confirming the notice of the Proper Officer of the Municipality as it deems proper and the order of the Council shall be final and binding.

4. (a) If the person receiving the notice does not comply with the notice within the period of time set by the Proper Officer of the Municipality and has not indicated his intention in writing to appeal within the period of time set out in subsection (e) of section 3 or upon an appeal hearing being held does not comply with the order of the Council, the Proper Officer of the Municipality may cause the lands and premises to be put into a condition satisfactory to him or into the condition ordered by the Council or to have the substance or thing removed from the street or road.

(b) The cost of the work carried out under subsection (a) may be recovered by the Municipality by summary process of law, and shall be a lien upon the lot or parcel of land affected thereby and the cost when certified by the Council of the Municipality may be added to the taxes on the land or buildings and be collected in the same manner as the ordinary taxes of the Municipality.

5. THAT any person who fails to comply with a notice of the Proper Officer of the Municipality or, after appeal, fails to comply with an order of the Council of the Municipality, or who contravenes or fails to comply with the provisions of this By-Law is guilty of an offence and

is liable, on summary conviction, to a fine of not less than \$ 1000.00 and not more than \$1,000.00 in addition to any costs incurred by the Municipality as set forth in section 4 above.

6. THAT whenever the Council of the Municipality directs a person whether he/she is an owner, agent, lessee or occupier, to do any matter or thing, then in default of its being done by that person, whether he/she is the owner, agent, lessee or occupier, or any or all of them, such person shall be liable to prosecution and it shall be no defence of any owner, agent, lessee or occupier so prosecuted to allege that any other person is responsible for such default.

7. THAT subject to section 239 of "*The Municipal Act*", the Proper Officer of the Municipality is hereby authorized to enter any lands or premises to inspect for conditions that may be untidy or unsightly or constitute a nuisance or contravene or fails to comply with the provision of this By-Law.

8. THAT this By-Law shall come into force and effect on the 6th day of December, 2006 .

9. By-Law #93-66 is repealed effective with the passage of this By-Law.

DONE AND PASSED by the Council of the Rural Municipality of East St. Paul, in Council duly assembled this 6th day of December , A.D. 2006 .

THE RURAL MUNICIPALITY OF EAST ST. PAUL

Originally Signed By Lawrence Morris
Reeve

Originally Signed By Carol Oppermann
Acting Chief Administrative Officer

Read a First time this 22nd day of November , A.D. 2006 .

Read a Second time this 6th day of December , A.D. 2006 .

Read a Third and Final time this 6th day of December , A.D. 2006 .