

**RURAL MUNICIPALITY OF LAC DU BONNET**  
**Derelict Vehicle & Unsightly Unsafe Property**  
**BY-LAW NO. 4-16**

**BEING A BY-LAW OF THE** Rural Municipality of Lac du Bonnet to establish a minimum standard to regulate nuisances, abandoned and derelict vehicles and unsightly unsafe property, and to repeal the Unsightly Property Bylaw 5-08 and the Parking and Storage of Vehicles Bylaw 17-13;

**WHEREAS** The Municipal Act reads in part 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 232(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, odors, 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:*
- 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 considered desirable and necessary to pass a by-law for the purpose of regulating nuisances, derelict vehicles, unsightly unsafe property that are detrimental to the health, safety and comfort of the residents of the Rural Municipality of Lac du Bonnet;

**NOW THEREFORE** the Council of the Rural Municipality of Lac du Bonnet in council assembled, hereby enacts as a by-law as follows:

### **Part 1- INTERPRETATION, APPLICATION AND DEFINITIONS**

This by-law may be referred to as "Derelict Vehicle & Unsightly and Unsafe Property By-Law".

#### **List of Schedules:**

- 1) Schedule "A" - Notice of Violation
- 2) Schedule "B" - Order to Comply
- 3) Schedule "C" – Notice of Objection by Appellant
- 4) Schedule "D" – Schedule of penalties

#### **3. Amendment Of Schedules**

Council of the Rural Municipality of Lac du Bonnet may from time to time, by resolution, amend each and every schedule attached to this by-law.

#### **4. Interpretation**

In all parts of this by-law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

Unless otherwise expressly provided, or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions *The Municipal Act*.

#### **5. Conflict with Other By-Laws**

Where a provision of this by-law may conflict with a provision of another by-law in force in the Municipality, the provision that establishes the higher standard to protect the health, safety and welfare of the general public prevails.

#### **6. Application**

This By-Law applies to all property and to all Owners and Occupiers of Property within the Rural Municipality of Lac du Bonnet boundaries.

#### **7. Definitions for the purpose of this Bylaw**

- 1) "Council" means the Council of the Rural Municipality of Lac du Bonnet
- 2) "Designated Officer" means the Municipal By-law Enforcement Officer or any other Person or agency appointed by the Municipality and partially or wholly responsible for the Property Standards within the Municipality.
- 3) "Dwelling" includes any Building part of a Building, other 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 appurtenant thereto and all Accessory Buildings, Fences or erections thereon or therein, and every Dwelling Unit within the Building.
- 4) "Garbage" means the same as "Rubbish".
- 5) "Insanitary Condition" means a condition or circumstance that:
  - a) is offensive; or
  - b) is, or may be, or might become injurious to health; or
  - c) prevents or hinders the suppression of disease; or
  - d) contaminates or pollutes, or may contaminate or pollute food, air or water; or
  - e) 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 by-law.

6) "Junk" means the same as "Rubbish".

7) "Municipality" means the Rural Municipality of Lac du Bonnet

8) "Non-Conformance":

a) "Immediately Dangerous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and which in the opinion of the Designated Officer is unsafe, or dangerous, or injurious to health.

b) "Hazardous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and which in the opinion of the Designated Officer is offensive or may become unsafe, or dangerous, or offensive or injurious to health.

c) "Non-Hazardous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and is other than an "Immediately Dangerous" Non-Conformance or "Hazardous" Non-Conformance.

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

10) "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.

11) "Order" means a notice of Non-Conformance and Order to clear yards of refuse and debris pursuant to this by-law.

12) "Owner" means the registered Owner of the land and Premises and includes the Person:

a) 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 his own account or as agent or trustee of any other Person, or

b) who would so receive the rent if such land and Premises were let; or

c) who is the vendor of such land under an agreement for sale that has paid any land taxes thereon after the effective date of the agreement; or

d) 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

e) who would so receive the installments of the purchase price if such land or Premises were sold under an agreement for sale.

13) "Person" means an individual, firm, partnership or corporation and, where the context requires, shall include the plural as well as the singular.

14) "Premises" include a Building or Accessory Building and any lands on which the Building is situated.

15) "Property" means any land as defined in The Municipal Act within the City whether or not there is situated thereon a dwelling or any other building.

16) "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.

17) "Standards" means the Standards prescribed in this by-law for the physical condition structures and properties, or parts thereof, together with the surrounding lands.

18) "Structure" means 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 and similar items

19) "Trash" means the same as "Rubbish".

20) "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.

21) "Unightly Property" means a Property, which in the opinion of the Designated Officer is detrimental to the surrounding area, including but not limited to:

- (i) the growth of grass to a length which is unsightly
- (ii) the growth of weeds so that same become a nuisance to adjoining properties
- (iii) the neglect of the exterior paint on any building to a degree that it would reasonably cause depreciation in property values in the immediate neighborhood.

22) "Vehicle" means a device, in, upon or by which a person or thing is or may be transported or drawn upon a highway but does not include:

- (i) a device designed to be moved solely by human muscular power or used exclusively upon stationary rails or tracks
- (ii) a motorized mobility aid

23) "Yard" means the land other than publicly owned land around and appurtenant to the whole or any part of a Building and used or capable of being used in connection with the Building.

## **PART 2- PROPERTY STANDARDS**

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:

- a) Rubbish;
- b) Unsafe Structure(s);
- c) Unightly Property;
- d) the storage of more than 2 motor 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
  - (i) the said Property and/or Structures are lawfully used and licensed as a commercial automobile dealership;
  - (ii) the vehicles are parked or stored at the rear of the property so as to be entirely screened from public view in a tidy and well maintained manner.
  - (iii) 1 of the vehicles is offered for sale on the property for no more than 60 days and no other vehicle has been offered for sale on the said property within the preceding 6 months
- e) the storage of household appliances, whether or not the same are capable of operation;
- f) the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a Nuisance to adjoining properties;
- g) the growth of grass to a length, which in the opinion of the Designated Officer is Unightly;
- h) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof.

## **PART 3-ENFORCEMENT [Sections 239 – 243 Municipal Act]**

### **Enforcement of Non-Conformance Orders**

1) The Municipality, by its duly appointed officers, shall be entitled to enforce this by-law as provided herein.

2) The Municipality may enter upon any land, Building, Structure, Premises or Yard (hereinafter called the "Premises") in the Rural Municipality of Lac du Bonnet for the purpose of:

- a) inspecting;
- b) determining conformance to this by-law; and
- c) enforcement of this by-law.

In exercising these rights, the Municipality may use reasonable force to affect its purpose.

3) Upon inspection, if the Municipality determines that the Premises do not conform to the Standards described herein, the Municipality shall issue a **NOTICE OF VIOLATION** respecting same and deliver a copy to the registered Owner and/or the Occupier, if any, of the Premises. [Schedule "A"]

4) The above NOTICE of VIOLATION shall contain:

- a) the name of the registered Owner and/or Occupier, if any;
- b) a description and location of the Premises;
- c) the particulars of Non-Conformance, including a completion date;
- d) the degree of Non-Conformance as defined in Section 5(b) hereof (e.g., Hazardous or Non-Hazardous).

**NOTE:** If the non-conformance is determined by the Designated Officer to be "immediately dangerous", the NOTICE OF VIOLATION is eliminated and an ORDER TO COMPLY is issued directly.

5) In the event that the action specified in the **NOTICE OF VIOLATION** has not been taken by the specified date, an **ORDER TO COMPLY** shall be directed to the registered Owner and Occupier, if any, and contain: (Schedule B)

- a) a declaration 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;
- b) a declaration that the degree of Non-Conformance is either "Immediately Dangerous", "Hazardous" or "Non-Hazardous" as defined herein;
- c) the final date specified for achieving conformance as described in Section 6) below;
- d) the final date for filing a notice of objection to the Order by the registered Owner and/or Occupier.
- e) a copy of the Notice of Objection (Schedule "C");
- f) a copy of the penalty provision of this by-law;
- g) such other information or direction as the Municipality deems appropriate.

6) With respect to Section 5(c) 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:

- a) immediately in cases of Immediately Dangerous Non-Conformance.
  - b) 10 days, in cases of Hazardous Non-Conformance;
  - c) 4 weeks, in cases of Non-Hazardous Non-Conformance;
- These times 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.

7) The Municipality shall serve a true copy of any Notice of Violation and Order to Comply issued under this By-law on the owner(s) and/or occupier(s) of the subject premises in one or more of the following manners:

- a) Personal service on the owner(s) and/or occupier(s) or on any officer, director or attorney for service of same;
- b) Certified mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known address;
- c) Registered mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known address;
- d) E-mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known facsimile number;
- e) Attaching same to a prominent place on the subject premises;
- f) Personal service shall be deemed to have been effected on the date of service;
- g) In all other manners of service, whether inside or outside the Province of Manitoba, service shall be deemed to have been effected on the 5th day after the document has been mailed, e-mailed, faxed or attached.

## 2. Appeals

1) With respect to Section 1.5(c) above, the time limit to file a Notice of Objection from the date of service of the Order shall be seven days in cases of Non-Hazardous or Hazardous Non-Conformance.

In cases of Immediately Dangerous Non-Conformance, there is no right to file a Notice of Objection.

2) Upon the filing of a Notice of Objection, the following shall apply or occur:

- a) the enforcement of the Order shall be stayed pending the appeal;
- b) an appeal of the Order is deemed to be commenced;
- c) the Municipality shall, within 3 days of the receipt of the Notice of Objection, set a date, time and place for the hearing of the appeal and serve notice of same on the appellant by registered mail;
- d) the hearing shall be set no later than 20 days after the filing of the Notice of Objection;
- e) the tribunal set to hear the appeal shall be the Council of the Municipality;
- f) the hearing may be adjourned from time to time as Council may decide;
- g) if the appellant fails to appear at the hearing, the appeal shall be dismissed, the Order automatically affirmed and the enforcement reinstated retroactive to the dates specified therein;
- h) after the hearing of the appeal, Council may
  - i) affirm the Order

- ii) rescind the Order if the appellant has since complied; or
- iii) vary the Order at its discretion.
- i) Council's decision on the issue is final and not subject to further appeal.

**PART 4-PENALTIES [Sec. 249 M.A. and Regulation #50/97]**

1. If the Order relates to Immediately Dangerous Non-Conformance and is not immediately obeyed, or if the Order relates to Hazardous or Non-Hazardous Non-Conformance and is not obeyed within the prescribed time, or if an appeal is determined and the Order or Council's decision respecting same is not obeyed in the prescribed time:

1) The registered Owner and/or Occupier, if any, of the Premises is guilty of an offence and is liable to a fine as set out in **Schedule "D"**

The said Owner shall be deemed guilty of a separate offence for each and every day that he is in violation of the said Order or decision.

2) Where the contravention, refusal, neglect, omission or failure continues for more than 1 day, the person is guilty of a separate offence for each day that it continues.

3) The Municipality may enter upon the Premises and remedy the Non-Conformance itself and charge the costs of same to the registered Owner by adding these costs to the current real Property taxes, and may obtain a judgment in the Court of Queen's Bench for repayment of same;

4) The Municipality may restrain the registered Owner and/or Occupier, if any, from continued Non-Conformance of the Order or decision by way of injunction from the Court of Queen's Bench.

**PART 5-REPEAL**

1) This By-Law repeals By-Law No. 05-08 and 17-13 and all amendments

2) The repeal of the by-laws in the last preceding subsection mentioned shall not revive any bylaw or any provision of any by-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction matter or thing anterior to the said repeal to which they would otherwise apply.

3) And the repeal of the said by-laws should not affect:

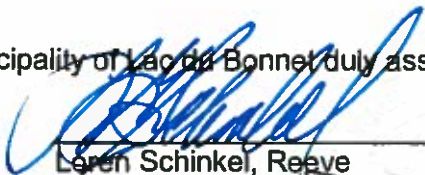
a) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;

b) nor any action, suit, judgment, decree, certificate, execution, process, Order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;

c) nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal;

d) nor shall any such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

DONE AND PASSED by the Council of the Rural Municipality of Lac du Bonnet duly assembled this 27<sup>th</sup> day of September 2016.

  
 \_\_\_\_\_  
 Loren Schinkel, Reeve

  
 \_\_\_\_\_  
 Tannis Lodge, Chief Administrative Officer

Read a first time this:	July 12, 2016	Res # 2016 0337
Read a second time this:	July 12, 2016	Res # 2016 0338
Read a third and final time this:	September 27, 2016	Res # 2016 0482

**Schedule "A"**

**Notice of Violation  
under  
Derelict Vehicle & Unsightly Property By-Law 4-16  
[Section 239 Municipal Act]**

**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:**

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 By-law. 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.

Your co-operation and assistance in this matter is appreciated.

**Date of second inspection:**

**If you have questions please call:**

\_\_\_\_\_

**Designated Officer** **Signature**



**Schedule "B"**

**Order to Comply  
with  
Derelict Vehicle & Unsightly Property By-law 4-16**  
[Section 242 The Municipal Act]

**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 Rural Municipality of Lac du Bonnet Derelict Vehicle & Unsightly Property By-law No. 4-16.

**Description of Non-Conformance(s):**

**Order to Comply:**

Under the authority of Section 242(1) of The Municipal Act, you are hereby ordered to make the following changes to bring your property into compliance with the Rural Municipality of Lac du Bonnet Derelict Vehicle & Unsightly Property By-law No. 4-16.

**Action required to remedy non-conformances:**

**Date of Order:**

**Type of non-conformance:**

**Date to be completed:**

**Immediately Dangerous (Immediately)**  
**Hazardous (10 days)**  
**Non Hazardous (4 Weeks)**

**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 issued 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.

**[see over]**

**Appeal:**

You may appeal this Order by filing with the Chief Administrative Officer of the Rural Municipality of Lac du Bonnet **within ten (10) days**, an objection substantially in the form attached to the By-law as Schedule "C" a copy of which is attached.

**If you have any questions, please call:**

\_\_\_\_\_  
**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 Objection and action taken:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**NOTICE OF OBJECTION**

IN THE MATTER OF the Derelict Vehicle & Unsightly Property By-law No. 4-16 of the Rural Municipality of Lac du Bonnet.

To: The Rural Municipality of Lac du Bonnet

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural Municipality of Lac du Bonnet regarding the Order to

made by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

respecting the Premises know as \_\_\_\_\_.

Dated at the Rural Municipality of Lac du Bonnet this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Appellant (Please Print)

\_\_\_\_\_  
Signature of Appellant

\_\_\_\_\_  
Address

**Schedule "D"**

**Penalty Schedule**

Part Two Section #	Offence	1 <sup>st</sup> offence penalty	Subsequent offence penalty
1(a)	Fail to keep property free and clear of rubbish	\$200	\$400
1(b)	Fail to keep property free and clear of unsafe structures	\$500	\$1000
1(c)	Fail to keep property free and clear of unsightly property	\$500	\$1000
1(d)	Fail to keep property free and clean or more than 2 unregistered vehicles unless entirely screened from public view	\$100 per vehicle	\$200 per vehicle
1(e)	Fail to keep property free and clear of the storage of household appliances	\$100 per appliance	\$200 per appliance
1(f)	Fail to keep property free and clear of weeds	\$100	\$200
1(g)	Fail to keep property free and clear of unsightly long grass	\$100	\$200
1(h)	Fail to keep property free and clear of wrecked, dismantled, inoperative, discarded, abandoned or unused vehicles or other machinery or part thereof	\$500	\$1000