

**RM of EMERSON-FRANKLIN
BY-LAW NO 04/2017**

**BEING A BY-LAW OF THE RM OF EMERSON-FRANKLIN RESPECTING
PROPERTY STANDARDS AND MAINTENANCE**

WHEREAS Section 232(1) of The Municipal Act provides, in part,

- “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;
 - (b) subject to Section 233, activities or things in or on private property;”

AND WHEREAS Section 232(2) of The Municipal Act provides, in part,

- “Without limiting the generality of subsection (1), a Council may in a by-law passed under this Division
- (a) regulate or prohibit;
 - (o) the enforcement of by-laws;”

AND WHEREAS Section 233 of The Municipal Act provides, in part,

- “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, odors, unsightly property, fumes and vibrations.”

AND WHEREAS Section 236(1) of The Municipal Act provides, in part,

- “Without limiting the generality of clause 232(1) (o) (enforcement of by-laws), 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...;
 - (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...”.

AND WHEREAS Section 242(1) of The Municipal Act provides, in part,

“If a designated officer finds a person is contravening a by-law that the municipality is authorized to enforce, such 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”.

AND WHEREAS Section 242(2) of The Municipal Act provides, in part,

- “The order may
- (a) direct a person to stop doing something...

- (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 demolish of a structure...
- (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”.

AND WHEREAS Section 243(1)(2) of The Municipal Act provides, in part,

“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;
- (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”.

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 the Council of the RM of EMERSON-FRANKLIN, deems it necessary to pass a by-law prohibiting and rectifying property standards violations.

NOW THEREFORE the Council of the RM of Emerson-Franklin in open Council assembled enacts as follows The RURAL MUNICIPALITY OF EMERSON-FRANKLIN PROPERTY STANDARDS AND MAINTENANCE BYLAW 04/2017

Sec 1.1 Definitions and Interpretations

“Building” means any structure that has been used or is intended to be used to support or shelter any use or occupancy;

“Vacant means” a building that is not being used or occupied for a protracted period.

“Derelict Vehicle” means any motor vehicle that is rusted, partially scrapped or wrecked or dismantled to the extent that it is not road-worthy.

“Derelict building” means structures or building that is in gross neglect, structurally unsafe and has not been maintained to accommodate occupancy.

“Designated employee” means the Chief Administrative Officer of the Rural Municipality of Emerson-Franklin and any employee of Emerson to whom he or she has delegated an authority or duty granted or imposed under this By-law;

‘Council’ means the Council of the RM of Emerson-Franklin charged with the responsibility of making and enforcing bylaws.

“Garbage” means and includes rubbish, junk, scrap wood, scrap metal and all items of refuse.

“Unsightly property” means a property that lacks maintenance and is in a state of neglect.

“Emergency abatement” means to take immediate action to secure a vacant building.

“Derelict and Abandoned” mean a dilapidated or derelict building that has been abandoned by the owner – or where the owner cannot be found.

“Enforcement officer” means an employee of the RM of Emerson-Franklin who has been authorized to exercise the powers of enforcement under this By-law;

“Notice of Inspection’ means a Notice in Writing served or sent by a designated officer of the RM of Emerson, to the owner to inspect a Vacant or Derelict Building – with the owner or his representatives being present

“Owner” includes a person responsible for real property and any person; includes owner, part-owner, and property manager and or property management companies.

“Residential building” means a building that has been designed for or has been used for residential occupancy

Sec 1.2 - Responsibility of Property Owner

No owner shall cause, allow or permit the following:

- a. Accumulation of garbage or items of refuse on any property
- b. The presence of any Derelict Vehicle
- c. Unsightly Conditions that causes a nuisance
- d. Derelict buildings or structures that represents Urban Blight
- e. Dangerous structures or conditions that may cause a fire or harm to person or animals
- f. Excavation holes that are not secured
- g. Long grass and weeds

Sec 1.3 - Storage of Vehicles on Property - Prohibitions

1. Except as provided in Sec 1.4 - No owner shall store, keep or park vehicles capable of being registered under the Highway Traffic Act that are not registered unless the said property is licensed as a Commercial Automobile Dealership.

Sec 1.4 Storage of Vehicles Exceptions

The following vehicles are allowed to be stored on property:

- a. Two unregistered vehicles are allowed to be stored at the back of the property, provided that they are properly covered and secured from public view.
- b. That they vehicles stored are not derelict, but are in good road worthy condition.

General Enforcement

1. **THAT** in this by-law, “designated officer” shall mean a building inspector, Bylaw Officer or other official appointed by Council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer.
2. **THAT if**, in the opinion of the designated officer, a structure, garbage accumulation on yard, the presence of a derelict vehicle, an excavation or hole; or if the property is unsightly or detrimental to the surrounding area, the designated officer may, by written **ORDER or Notice of Inspection require the owner to:**
 - (a) Attend for property inspection, improve the appearance of the property in the manner specified in the written order, or remove a derelict vehicle.
 - (b) if the property is a Derelict Building or Unsafe Structure, remove or demolish the building or structure and level the site.
3. **THAT** the written order issued by the designated officer shall state a time within which the owner must comply with the order and state that if the order is not complied with within the specified time, the Municipality will take the action or measure at the expense of the owner.
4. **THAT** the written order issued by the designated officer shall be served on the owner of the property, either personally or by mailing it by registered mail to the last address for that

owner recorded on the Municipality's tax rolls; in the event service is carried out by registered mail, it shall be conclusively deemed to have been served on the owner five (5) days after it is mailed.

5. **THAT** any owner aggrieved by an order issued by the designated officer under this by-law may, before the compliance date of the order, appeal to the Council.
6. **THAT** Council may hear the appeal as a committee of the whole or by subcommittee especially established for this purpose.
7. **THAT** upon the hearing of an appeal, the Council may:
 - (a) uphold, rescind, suspend or modify the order issued by the designated officer;
 - (b) extend the time within which compliance with the order shall be made; or
 - (c) make such other decision or order as in the circumstances of each case it deems just, and the decision or order of the Council, upon being communicated to the appellant, shall stand in place of the order against which the appeal is made.
8. **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 and may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.
9. **THAT** any person who contravenes or disobeys, or refuses or neglects to obey any order made under this by-law is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$1,000.00, or in the case of an individual, to imprisonment for a term not exceeding six months or to both such a fine and such an imprisonment.
10. **THAT** where a corporation commits an offence under this by-law, each Director or Officer of the corporation who authorized, consented to, connived at, or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offences, is likewise guilty of the offence and is liable on summary conviction, to the penalties for which provision is made in Section 9, above.
11. **THAT** where the contravention, refusal, neglect, omission, or failure, continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.

DONE AND PASSED in Council assembled at the Council Chambers of Emerson-Franklin in the Province of Manitoba this 13 day of June 2017

THE RM OF EMERSON-FRANKLIN



REEVE



CHIEF ADMINISTRATIVE OFFICER