MUNICIPALITY OF CLANWILLIAM-ERICKSON
BY-LAW NO. 95-24

BEING A BY-LAW OF THE MUNICIPALITY OF CLANWILLIAM-ERICKSON TO PROVIDE FOR THE MAINTENANCE OF PROPERTY.

WHEREAS, Section 232(1) of the Municipal Act provides 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

AND WHEREAS Section 232(2) of the Municipal Act provides in part as follows:

232(2) Without limiting the generality of subsection (1), a council may in a by-law 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 by-law under clause 231(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 or vibrations.

AND WHEREAS Section 243(1) of the Municipal Act provides as follows:

243(1) If, in the opinion of a designated officer, a structure, excavation or hole is detrimental 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 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.

AND WHEREAS Section 247(1) of the Municipal Act provides as follows:

247(1) …. in an emergency, a municipality may take whatever actions or measures are necessary to eliminate the emergency.

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED as a by-law of the Municipality of Clanwilliam-Erickson in Council duly assembled as follows:

APPLICATION

1. This by-law applies to real and personal property within the urban limits of the Municipality of Clanwilliam-Erickson, and within the Seasonal Recreational, Rural Residential, and Highway Commercial zones of the Municipality's rural areas. It is the intention of this by-law to establish and maintain minimum property maintenance standards for the purposes of protecting property values of residents of the municipality and to encourage and maintain the safety and protection of persons and property.

By-Law No. 95-24

DEFINITIONS

2. In this by-law:

"Designated Officer" means a person appointed by resolution or by-law of the Council of the Municipality of Clanwilliam-Erickson to carry out the powers, duties and functions under this by-law.

"Derelict Vehicle" means

(i) any vehicle or part thereof which in order to be driven on a highway, must be registered under the Highway Traffic Act., and which is not so registered for the current year, and which is or appears to be inoperative for such purposes due to age or mechanical failure of the motor, transmission, assembly system, chassis, body or any other parts.

(ii) any vehicle, dismantled, partially dismantled, inoperative, discarded, abandoned, or unused vehicles, trailers and other machinery or any part or parts thereof.

"Inspector" means any person from time to time appointed by Council or its agents to enforce the provisions of this By-Law.

"Interested Person" means the owner, occupier or mortgagee of real or personal property in any way affected by an order made under the authority of this by-law;

"Occupier" means any person in actual or constructive possession of real or personal property pursuant to a lease or tenancy.

"Owner" in the case of real property, means each registered owner according to the records of the Neepawa Land Titles Office and, in the case of personal property, means the person in actual or constructive possession of such property.

ADMINISTRATION & ENFORCEMENT

3. This by-law shall be administered and enforced by the designated officers or agents.

4. In reference to the administration and enforcement of this by-law, designated agents shall include:

(i) designated officers of the Municipality of Clanwilliam-Erickson;

(ii) Building Inspectors, Fire Inspectors, Health Inspectors, Weed Inspectors and any other persons or agencies employed by or acting for the Municipality of Clanwilliam-Erickson and partially or wholly responsible for fire and building safety and standards within the boundaries of the municipality.

5. The development officer or designated officer will under The Planning Act, Section 22(1) & (2), be the designated agent primarily responsible for the enforcement of this By-Law in relation to matters respecting compliance with the Building & Plumbing Codes.

6. No person acting within the scope of their duty to administer and enforce this by-law will be personally liable for any act or omission while so acting.

COMPLAINTS

7. Any person may allege a violation of this by-law by filing a complaint in writing with the municipality indicating the specific violations.

INSPECTIONS

8. Upon receipt of a written complaint, a designated officer will inspect the property identified in the complaint and will determine whether or not there is or has been a violation of this by-law.

9. For the purpose of inspection under this by-law, a designated officer may enter upon, inspect and view any real or personal property at all reasonable times with or without the consent of any person.

ORDERS

10. If the designated officer is satisfied upon inspection that there is a violation of this by-law, the designated officer will make an order in the form attached hereto and marked as Schedule "A".

11. Attached to the Order will be a Notice of Objection, attached and marked as Schedule "B", which will indicate the place to which the Notice of Objection will be delivered.

12. Each order made by the designated officer will specify a time within which compliance will be required, and the time for compliance will be not less than seven days or more than one hundred and fifty days from the date of the Order.

13. The time for compliance with an Order may be postponed once by the designated officer for a period of not more than 90 days, only upon the owner showing that reasonable efforts to comply with the Order have been made but full compliance cannot be effected within the time provided because of technical difficulties, inability to obtain necessary labour, repairs or materials.

14. Except in the case of a violation posing an immediate danger, the filing of an objection to an Order or any of the provisions of an Order shall operate as a stay of proceedings until consideration of the objection by the municipality through the prescribed appeal process.

15. In the case where a breach of the by-law poses an immediate danger, the designated officer may, pursuant to Sections 8 & 9 of this By-Law, order the owner to correct the non-conformance immediately.

16. In the event the designated officer is unable to contact the owner either by attending at the site of the violation or by telephoning at the residence of the owner, the Municipality may cause the violation to be corrected with no further attempt to notify the owner and the cost thereof may be added to the real property taxes applicable to the property or collected in any other manner available to the municipality by law.

17. Each Order made under this by-law, except for an Order issued in the case of a violation posing an immediate danger, shall be in writing, and served in accordance with provisions 22 & 24 of this by-law.

APPEALS

18. A person may appeal an order made by the designated officer by filing a Notice of Objection, in the form attached to this by-law and marked as Schedule "B", with the Chief Administrative Officer of the Municipality of Clanwilliam-Erickson at any time before the time for compliance as indicated in the order.

19. Upon receipt of a Notice of Objection in the required form, the municipality shall hold a hearing within forty days immediately following receipt of the Notice of Objection. Each interested person filing a Notice of Objection and the designated officer are entitled to attend the hearing with or without counsel and to present evidence and make submissions. The procedure to be used at the hearing shall be the procedure set out in the then current procedural by-law of the municipality for public hearings, supplemented and modified as the Council of the Municipality of Clanwilliam-Erickson shall determine. The majority of the councillors currently holding office, including the Mayor, shall constitute a quorum and the decision of the majority shall stand in the place of the Order in respect of which the Notice of Objection is made, for all purposes. The decision rendered at the hearing is final and no further appeal may be taken in respect of the subject matter of the Order.

20. If any person who has filed a Notice of Objections to an Order fails to appear at the hearing, either in person or by counsel to make representation, a decision may be made in their absence.

21. The Council of the Municipality may reserve their decision on appeal, however, they will render a decision on an appeal within five days of the date of the hearing of the appeal and will serve upon all interested persons a notice of disposition immediately upon determination. The Council may:

(a) confirm the order of the designated officer; or
(b) vary the order of the designated officer in any respect; or
(c) set aside the order of the designated officer.

SERVICE

22. A copy of any Order or postponement thereof made by the designated officer will be served by personal service or by registered mail or posted on the property to

(a) the owner;
(b) the occupier, if any, and
(c) the mortgagee, if any

23. A Notice of Hearing by the Council shall be served by personal service or by registered mail upon each person filing a Notice of Objection in the required form, and upon the designated officer. The Notice of Hearing shall state the time, date and place of the hearing. The Notice of Hearing shall be served no later than five days prior to the date set for the hearing.

24. Personal service shall be deemed to have been made on the date service is actually effected upon the person and service by registered mail shall be deemed to have been made the day after posting.

25. Service upon deceased persons may be made by service upon any one of their heirs, executors or administrators and service upon corporations may be made by service upon any officer of the corporation as disclosed in its most current information on file with the Corporations Office or upon any adult person at the usual place of business of the corporation who appears to the person effecting service to be in charge.

STANDARDS

Maintenance of Real Property

26. (a) An owner or occupier of real property that includes buildings or dwellings shall

(i) ensure, on a continuing basis, that all requirements are met in relation to the minimum standards of maintenance and occupancy in accordance with all codes and standards enforced by the Province of Manitoba.

(ii) maintain the appearance of buildings and other structures so not to become unsightly and a detriment to the surrounding areas.

27. (a) An owner or occupier of real property shall keep it free and clear from:

(i) rubbish, garbage and other debris;
(ii) objects, conditions and substances that present a health, fire or accident hazard;
(iii) objects and conditions, including holes and excavations, that are health, fire or accident hazards;
(iv) objects, conditions and substances that contaminate or pollute the air or water;
(v) objects, conditions and substances that constitute a nuisance and may degrade the surrounding properties;
(vi) the growth of weeds so that the same become a nuisance to adjoining properties;
(vii) the growth of grass to a length which is unsightly;
(viii) the storage of household appliances whether or not the same are capable of operation in a place which is visible from any public street, road, or lane; and

(ix) the storage of motor vehicles that have been abandoned or derelict, wrecked, dismantled, partially dismantled, inoperative, discarded, or any parts thereof.

(b) No owner or occupier of real property shall have on it at any time more than one unregistered vehicle unless each unregistered vehicle in excess of one is:

(i) stored in a garage, shed or completely enclosed structure; or
(ii) is fully secured from public view by a natural or artificial barrier.

Drainage

28. (a) No roof drainage or surface drainage shall be discharged on neighboring property or any adjacent property.

(b) Yards shall be graded in such a manner as to prevent the excessive or recurrent ponding of water or the entrance of water into a basement or cellar and shall be cultivated or protected with a suitable ground cover to prevent erosion of the soil.

Fences and Accessory Buildings

29. All fences and accessory buildings shall be kept weather resistant, in good repair, and free from health, fire and accident hazards.

Garbage Disposal

30. Garbage disposal shall be in accordance with the applicable municipal by-laws.

Health Standards

31. An owner or occupier of real or personal property shall keep it free of rodents, vermin, and insects at all times and methods used for exterminating rodents, vermin or insects shall conform with generally accepted practice in the urban ward of the municipality, as determined by the designated officer.

32. All properties shall comply with the Public Health Standards as determined by the Province of Manitoba.

Conflict with Other By-Laws

33. Where a provision of this By-Law conflicts with a provision of another By-Law in force in the Municipality, or of any building, safety or Fire Code, the provision that establishes the higher standard to protect health, safety and welfare of the general public shall prevail.

ENFORCEMENT

34. Every person who omits, neglects or refuses to comply with an Order made under this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding 30 days, or both.

35. Every person who obstructs or interferes with an inspection being conducted under the authority of this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding 30 days, or both.

36. Where an order has not been complied with, the designated officer may take any lawful action and do all things necessary to effect compliance, and where the municipality incurs any cost as outlined in Schedule “C” hereto attached, to effect compliance, that costs including administrative costs, may be added to the real property taxes applicable to the property made subject to the Order and may be collected in any other manner available to the municipality by law.

37. By-Law No. 46/17 is hereby repealed.

By-Law No. 95-24

DONE and PASSED by the Council of the Municipality of Clanwilliam-Erickson duly assembled this **13th** day of November, **2024 A.D**.

MUNICIPALITY OF CLANWILLIAM-ERICKSON

_____
Reeve

_____
Chief Administrative Officer

Read a first time this 9th day of October, 2024, A.D.
Read a second time this 13th day of November, 2024, A.D.
Read a third time this 13th day of November, 2024, A.D.

SCHEDULE "A"

PROPERTY STANDARDS BY-LAW NO. 95-24

ORDER TO MAINTAIN

TO: _____, as registered owners

FROM: _____, Chief Administrative Officer on behalf of the Municipality of Clanwilliam-Erickson.

PURSUANT to The Municipality of Clanwilliam-Erickson Property Standards By-Law No. 95-24, a designated officer/agent for the municipality has inspected the land, building and premises commonly known as:

_____in Clanwilliam-Erickson, Manitoba,

being legally described as:

_____
the registered owners being:

_____

and as a result of this inspection, the Designated Officer/Agent is satisfied that the land, building, and premises do not comply with the standards prescribed in the By-Law in that:

PURSUANT to SECTION 9 of the said By-Law, the Municipality of Clanwilliam-Erickson, by _____, being a designated officer/agent of the Municipality, orders you to bring the property into conformity with the provisions of the said by-law and within **_____** days of service of this Order.

PURSUANT to SECTION 11 of the said By-Law, the owner(s) or a person authorized in writing by him/her to act on his/her behalf, may appeal this Order or any of its provisions by filing with the Chief Administrative Officer of the Municipality of Clanwilliam-Erickson, a NOTICE OF OBJECTION (attached herewith) on or before the deadline for compliance with this Order as indicated above.

SIGNED at the Municipality of Clanwilliam-Erickson, this ____ day of_____, A.D. **20__**.

THE MUNICIPALITY OF CLANWILLIAM-ERICKSON
Per:

_____
Chief Administrative Officer

SCHEDULE "B"

PROPERTY STANDARDS BY-LAW NO. 95-24

IN THE MATTER of the Property Standards By-Law No. 95-24 of The Municipality of Clanwilliam-Erickson.

NOTICE OF OBJECTION

TO: Chief Administrative Officer
Municipality of Clanwilliam-Erickson
P.O. Box 40
Erickson, Manitoba R0J 0P0

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Municipality of Clanwilliam-Erickson from the Order to _____

_____
Repair or Demolish; Vacate Dwelling; etc.

made by _____ *Name and Title*

on the _____ day of _____, A.D. 20___ respecting the residential premises or

non-residential property known as _____

_____

on the following grounds:

_____

_____

_____

Dated at Erickson, Manitoba, this _____ day of _____, A.D. 20__.

_____
Signature of Appellant

_____
Address

SCHEDULE "C"

PROPERTY STANDARDS BY-LAW NO. 95-24

IN THE MATTER of the Property Standards By-law No. 95-24 of The Municipality of Clanwilliam-Erickson the following rates shall apply when the said Municipality is rectifying a violation.

NOTICE OF FEES

a) For a lot in mowing condition, the grass cutting fee shall be $100.00 per hour or any part thereof;

b) For a lot which is not in mowing condition with rough terrain, and a weed eater must be used, the fee shall be $100.00 per hour or any part thereof;

c) For snow removal, the fee shall be $100.00 per hour or any part thereof;

d) For garbage pick up, the garbage truck fee charge shall be $100.00 per hour or any part thereof;

e) If municipal employees are required, the fee charged shall be $75.00 per hour or any part thereof;

f) When Contractors are required, the costs shall be as per Contractors price plus an administration fee of 25% of Contractors fee.