

RURAL MUNICIPALITY OF TACHÉ

Derelict Vehicle & Unsightly Property BY-LAW NO. 02-2020

BEING A BY-LAW OF THE Rural Municipality of Taché to establish a minimum standard to regulate nuisances, derelict, abandoned and unsightly property.

WHEREAS *The Municipal Act* CCSM c M225 (the “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 wellbeing 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) (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 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), (the enforcement of a by-laws) and subject to subsection (3) 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.

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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.

AND WHEREAS it is deemed expedient to pass a by-law for the purpose of regulating and abating nuisances and derelict, abandoned and unsightly property that are detrimental to the health, safety, and comfort of the residents of the Rural Municipality of Taché.

NOW THEREFORE THE COUNCIL OF THE RURAL MUNICIPALITY OF TACHÉ IN COUNCIL ASSEMBLED, HEREBY ENACTS AS A BY-LAW AS FOLLOWS:

**PART ONE
INTERPRETATION, APPLICATION AND DEFINITIONS**

1.) Short Title:

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

2.) List of Schedules:

- a.) Schedule "A" - Notice of Violation Under Derelict Vehicle and Unsightly Property By-Law
- b.) Schedule "B" - Order to Comply with Derelict Vehicle and Unsightly Property By-Law
- c.) Schedule "C" – Notice of Objection by Appellant

3.) Amendment of Schedules:

Council of the Rural Municipality of Taché may from time to time, by resolution, amend the schedules 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 conflicts 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 will prevail.

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6.) Application:

This By-Law applies to all Property and to all Owners and Occupiers of Property within the Rural Municipality of Taché boundaries.

7.) Definitions:

- a.) "Council" means the Council of the Rural Municipality of Taché.
- b.) "Designated Officer" means any person or agency employed by or acting for the Municipality and partially or wholly responsible for the enforcement of this by-law within the Municipality as directed by Council or the Chief Administrative Officer of the R.M. of Taché.
- c.) "Derelict Vehicle" means a vehicle as defined in *The Highway Traffic Act*, including semi-trailers that are not stored or parked in an enclosed building with one or both of the following conditions;
 - i.) is not in operating condition;
 - ii.) does not have a valid registration under any one or more of *The Drivers and Vehicles Act*, *The Highway Traffic Act* or *The Off-Road Vehicles Act*.
- d.) "Dwelling" includes any building, part of a building, mobile home, 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 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.
- e.) "Insanitary Condition" means a condition or circumstance that:
 - i.) is offensive; or
 - ii.) is, or may be, or might become injurious to health; or
 - iii.) prevents or hinders the suppression of disease; or
 - iv.) contaminates or pollutes, or may contaminate or pollute food, air, water, or soil; or
 - v.) might render food, air, water, or soil 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.
- f.) "Municipality" means the Rural Municipality of Taché
- g.) "Non-Conformance":
 - i.) "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.
 - ii.) "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

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offensive or injurious to health.

iii.) "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.

- h.) "Nuisance" means activities or things that are or could become a nuisance, which may include weeds, odours, unsightly property, derelict vehicles, fumes, and vibrations;
- i.) "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.
- j.) "Order" means a notice of Non-Conformance and Order to clear property of refuse and debris pursuant to this by-law.
- k.) "Owner" means the registered owner of the land and premises.
- l.) "Person" means an individual, firm, partnership, or corporation and, where the context requires, shall include the plural as well as the singular.
- m.) "Premises" includes a building or accessory building and any lands on which the building is situated.
- n.) "Property" means real property as defined in *The Municipal Act* within the Municipality.
- o.) "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.
- p.) "Standards" means the standards prescribed in this by-law for the condition of structures and properties, or parts thereof, together with the surrounding lands.
- q.) "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.
- r.) "Trash" means the same as "Rubbish".

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- s.) "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.
- t.) "Unsightly Property" means a property, which in the opinion of the Designated Officer is detrimental to the surrounding area, including but not limited to the growth of grass to a length which is unsightly or the growth of weeds so that same become a Nuisance to adjoining properties.
- u.) "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 structures.

**PART TWO
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.) Unsightly Property;
 - d.) Insanitary conditions on the property;
 - e.) the storage of derelict vehicles within the Local Urban Districts of Landmark and Lorette of more than two (2);
 - f.) the storage of derelict vehicles outside the boundaries of Landmark and Lorette of more than five (5);
 - g.) The storage of allowable number of derelict vehicles in such a way that they are visible from the street or neighboring properties;
 - h.) the storage of household appliances, whether or not the same are capable of operation;
 - i.) the growth of weeds as defined in *The Noxious Weeds Act* so that they become a Nuisance to adjoining properties;
 - j.) the growth of grass to a length, which in the opinion of the Designated Officer is unsightly;
 - k.) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof. to a maximum as set out in Part 2 Section 1.) (e & f).
- 2.) **Exceptions**
 - a.) Notwithstanding Part 2 Section 1.) (f.) up to ten (10) derelict vehicles may be kept on properties within the Municipality on properties of 40 or more acres and must be stored in an organized manner at the back of the property.
 - b.) Subsection 1.) (e.) & (f.) does not apply to properties that are lawfully used and licensed as a commercial automobile dealership, auto repair shops or auto part retailers or otherwise

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authorized by Council;

- c.) Farm Vehicles & implements located on property zoned "AL Agriculture Limited or AG Agriculture General" are not restricted by the provisions of this By-law.

**PART THREE
ENFORCEMENT**

1.) Enforcement of Non-Conformance Orders

- a.) The Municipality, by its duly appointed officers, shall be entitled to enforce this by-law as provided herein.
- b.) The Municipality may enter upon any land, Building, Structure, Premises or Yard in the Rural Municipality of Taché for the purpose of:
- i.) Inspecting the land, Building, Structure, Premises and Yard; and
 - ii.) determining compliance to this by-law; and
 - iii.) enforcement of this by-law.
- c.) Upon inspection, if the Municipality determines that any one or more of the land, Building, Structure, Premises and Yard 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 Property in the form of "Schedule A".
- d.) The above NOTICE shall contain:
- i.) the name of the registered Owner and/or Occupier, if any;
 - ii.) a description and location of the Property;
 - iii.) the particulars of Non-Conformance, including a completion date;
 - iv.) the degree of Non-Conformance as defined in Part One Section 7(g) hereof (e.g., Hazardous or Non-Hazardous).

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

- e.) In the event that the action specified in the NOTICE has not been taken by the specified date, an ORDER shall be directed to the Owner and to Occupier, if any, and contain:
- i.) 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;
 - ii.) a declaration that the degree of Non-Conformance is either "Immediately Dangerous", "Hazardous" or "Non-Hazardous" as defined herein;
 - iii.) the final date specified for achieving conformance as described in Section 1 (f) below;
 - iv.) the final date for filing a notice of objection to the Order by the registered Owner and by the Occupier, if any.

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- v.) a copy of the Notice of Objection (Schedule "C");
 - vi.) a copy of the penalty provision of this by-law;
 - vii.) such other information or direction as the Municipality deems appropriate.
- f.) With respect to Section e (iii) above, the time limit to achieve conformance from the date of service of the Order shall be as follows:
- i.) immediately in cases of Immediately Dangerous Non-Conformance.
 - ii.) 10 days, in cases of Hazardous Non-Conformance;
 - iii.) 4 weeks, in cases of Non-Hazardous Non-Conformance;

These times may be extended at the discretion of the Designated Officer or the Chief Administrative Officer provided that the registered Owner and the Occupier, if any, are making reasonable efforts to conform.

- g.) The Municipality shall serve a true copy of any Notice of Violation Order issued under this By-law on the Owner and the Occupier, if any, of the Property in one or more of the following manners:
- i.) Personal service on the owner(s) and/or occupier(s) or on any officer, director, or attorney for service of same;
 - ii.) Certified mail service on the owner(s) and/or occupier(s) or on any officer, director, or attorney at the last known address;
 - iii.) Registered mail service on the owner(s) and/or occupier(s) or on any officer, director, or attorney at the last known address;
 - iv.) Attaching same to a prominent place on the subject premises;
 - v.) Personal service shall be deemed to have been affected on the date of service;
 - vi.) In all other manners of service, whether inside or outside the Province of Manitoba, service shall be deemed to have been affected on the 5th day after the document has been mailed or attached.

2.) Appeals

- a.) With respect to Part Three Section 1. (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.

- b.) Upon the filing of a Notice of Objection, the following shall apply or occur:
- i.) the enforcement of the Order shall be stayed pending the appeal;
 - ii.) an appeal of the Order is deemed to be commenced;
 - iii.) 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;

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- iv.) the hearing shall be set no later than 20 days after the filing of the Notice of Objection;
- v.) the tribunal set to hear the appeal shall be the Council of the Municipality;
- vi.) the hearing may be adjourned from time to time as Council may decide;
- vii.) 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;
- viii.) after the hearing of the appeal, Council may
 - a.) affirm the Order
 - b.) rescind the Order if the appellant has since complied; or
 - c.) vary the Order at its discretion.
 - d.) Council's decision on the issue is final and not subject to further appeal.

**PART FOUR
PENALTIES**

- 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:
 - a.) The Owner and the Occupier, if any, of the Property is guilty of an offence and is liable under the Provincial Offences Act and a fine as outlined under the Municipality's Provincial of Offences By-law will be issued. The Owner and the Occupier shall be deemed guilty of a separate offence for each and every day that he is in violation of the said Order or decision.
 - b.) 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.
 - c.) Should the Owner or Occupier fail to comply with the written order after the fourteen (14) day period has expired, or after Council has confirmed, varied or substituted the written order, the *Designated Officer* shall have the right to enter onto the Property and enforce the written order or written order of Council, as applicable in the circumstances.
 - d.) Owner shall pay all costs associated with enforcement of the written order and any written order of Council, including removal of the contravention, and where such Owner fails to pay such costs, the *Municipality* may proceed to have all such costs collected in a manner in which a tax may be collected as per Section 236(1)(b)(iii) of the *Act*.

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**PART FIVE
REPEAL**

1.) Repeal of By-Laws

- a.) This By-Law repeals By-Laws No. 16-2002, 18-2002, 2-2004, 37-2004, 20-2007 and any amendments thereof.
- b.) 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.
- c.) And the repeal of the said by-laws should not affect:
 - i.) 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;
 - ii.) 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;
 - iii.) nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal;
 - iii.) 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.

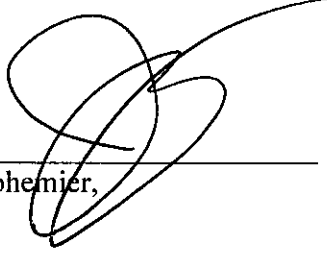
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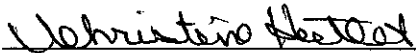
d.) Coming into Force

This By-Law shall come into full force and effect on the 10th, day of November
A.D, **2020**.

DONE AND PASSED by the Council of the Rural Municipality of Taché duly assembled.



Justin Bohemier,
Mayor.



Christine Hutlet,
Chief Administrative Officer.

Read a first time this 27th day of October, A.D., 2020.

Read a second time this 10th day of November, A.D., 2020.

Read a third and final time this 10th day of November A.D., 2020.

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Schedule "A"

<p>RURAL MUNICIPALITY OF TACHÉ Notice of Violation Under Derelict Vehicle & Unsightly Property By-Law [Section 239 Municipal Act]</p>	
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:
<p>In accordance with Section 239 (1) of <i>The Municipal Act</i>, 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 <i>The Municipal Act</i>.</p> <p>Your co-operation and assistance in this matter is appreciated.</p>	
Date of second inspection:	If you have questions, please call:
_____ Designated Officer	_____ Signature

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Schedule "B"

RURAL MUNICIPALITY OF TACHÉ Order to Comply with Derelict Vehicle & Unsightly Property By-law [Section 242 The Municipal Act] (to be delivered by Registered Mail or Personal Service)		
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 Taché Derelict Vehicle & Unsightly Property By-law No. 02-2020.		
Description of Non-Conformance(s):		
Order to Comply: Under the authority of Section 242(1) of <i>The Municipal Act</i> , you are hereby ordered to make the following changes to bring your property into compliance with the Rural Municipality of Taché Derelict Vehicle & Unsightly Property By-law No. 02-2020.		
Action required to remedy non-conformances:		
Date of Order:	Type of non-conformance: Immediately Dangerous (Immediately) Hazardous (10 days) Non-Hazardous (4 Weeks)	Date to be completed:
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 <i>The Municipal Act</i> .		
[see over]		

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Appeal:

With respect to Hazardous and Non-Hazardous Non Conformances, you may appeal this Order by filing with the Chief Administrative Officer of the Rural Municipality of Taché within seven 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

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Schedule "C"

**RURAL MUNICIPALITY OF
TACHÉ
NOTICE OF OBJECTION**

IN THE MATTER OF the Derelict Vehicle & Unsightly Property By-law No. 02-2020 of the Rural Municipality of Taché.

To: The Rural Municipality of Taché

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

made by _____ on the _____ day of _____, 20__.

respecting the Premises known as _____.

Dated at the Rural Municipality of Taché this _____ day of _____, 202__.

Name of Appellant (Please Print)

Signature of Appellant

Address

Phone No.