

BYLAW 902/10

A BYLAW OF THE TOWN OF NIPAWIN, IN THE PROVINCE OF SASKATCHEWAN, TO PROVIDE FOR THE ABATEMENT OF NUISANCES WITHIN THE TOWN OF NIPAWIN

The Council for the Town of Nipawin in the Province of Saskatchewan enacts as follows:

Short Title

1. This bylaw may be cited as *The Nuisance Abatement Bylaw*.

Purpose

2. The purpose of this bylaw is to provide for the abatement of nuisances, including property, activities, or things that adversely affect:
 - a) the safety, health or welfare of people in the neighbourhood;
 - b) people's use and enjoyment of their property; or
 - c) the amenity of a neighbourhood.

Definitions

3. In this bylaw:
 - a) "**Building**" means a building within the meaning of *The Municipalities Act*;
 - b) "**Council**" means the Council of the Town of Nipawin;
 - c) "**Controlled Substance**" means a controlled substance as defined and described in Schedules I, II and III of the *Controlled Drugs and Substances Act*, 1996 c. 19, as may be amended from time to time, but does not include the trade or manufacture of a controlled substance that is permitted under that Act or otherwise lawfully permitted under the Town's Business License bylaw.
 - d) "**Designated Officer**" means an employee or agent of the municipality appointed by Council to act as a municipal inspector for the purposes of this bylaw;
 - e) "**Excessive Nuisance Abatement Fees**" include the following costs and expenses incurred while responding to a nuisance service call or abating nuisance conduct, activity or condition:
 - i) pro-rata cost of police and Town staff salaries, including all fringe benefits;
 - ii) pro-rata cost of using police, fire and Town equipment and vehicles;
 - iii) pro-rata administration costs incurred by the Town in responding to a nuisance service call or abating a nuisance;
 - iv) the cost of repairs to damaged Town equipment, vehicles or property; and

- v) the cost of providing medical treatment for injured police officers and Town officials.
- f) **“Inspector”** means the License Inspector of the Town appointed from time to time by Council or their designate, a bylaw enforcement officer appointed in accordance with *The Municipalities Act*, and any Medical or Public Health Officer authorized by the Kelsey Trail Regional Health Authority to assist in the administration and enforcement of this bylaw;
- g) **“Junked Vehicle”** means any automobile, tractor, truck, trailer or other vehicle that
- i) either:
 - (1) has no valid license plates attached to it; or
 - (2) is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition; and
 - ii) is located on private land, but that:
 - (1) is not within a structure erected in accordance with any bylaw respecting the erection of buildings and structures in force within the municipality; and
 - (2) does not form a part of a business enterprise lawfully being operated on that land;
- h) **“Municipality”** means the Town of Nipawin;
- i) **“Nuisance”** means a condition of property, or a thing, or an activity, that adversely affects or may adversely affect:
- i) the safety, health or welfare of people in the neighbourhood;
 - ii) people’s use and enjoyment of their property; or
 - iii) the amenity of a neighbourhood and includes:
 - a) a building in a ruinous or dilapidated state of repair;
 - b) an unoccupied building that is damaged and is an imminent danger to public safety;
 - c) land that is overgrown with grass and weeds;
 - iv) untidy and unsightly property;
 - v) junked vehicles; and
 - vi) open excavations on property;
- j) **“Nuisance Service Call”** means the Town or police response to and abatement of any activity, conduct or condition occurring on or near a residential property which substantially and unreasonably interferes with a person’s use and enjoyment of a public place or of land or premises occupied by that person or which causes injury to the health, comfort or convenience of an occupier of land and, without limiting the generality of the foregoing, may include one or more of the following conduct, activities or conditions occurring or committed within or near a residential property:
- i) noises or sounds that disturb or are liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public, including but

not limited to, the residents of a rental unit, residential property or the neighbourhood;

ii) conduct, activities or conditions which constitute a violation of any Federal or Provincial statute prohibiting or regulating controlled substances, prostitution, alcohol or firearms; and

iii) conduct, activities or conditions which constitute causing a disturbance or disorderly conduct contrary to the *Criminal Code of Canada*.

k) **“Occupant”** means an occupant as defined in *The Municipalities Act*;

l) **“Owner”** means an owner as defined in *The Municipalities Act*;

m) **“Police”** means the Royal Canadian Mounted Police;

n) **“Property”** means land or buildings or both;

o) **“Structure”** means anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having permanent location on the ground or soil; but not including pavements, curbs, walks or open air surfaced areas.

Responsibility

4. Unless otherwise specified, the owner of a property, including land, buildings and structures, shall be responsible for carrying out the provisions of this bylaw.

Nuisances Prohibited Generally

5. No person shall cause or permit a nuisance to occur on any property owned by that person.

Dilapidated Buildings

6. Notwithstanding the generality of Section 5, no person shall cause or permit a building or structure to deteriorate into a ruinous or dilapidated state such that the building or structure:

a) is dangerous to the public health or safety;

b) substantially depreciates the value of other land or improvements in the neighbourhood; or

c) is substantially detrimental to the amenities of the neighbourhood.

Unoccupied Buildings

7. Notwithstanding the generality of Section 5, no person shall cause or permit an unoccupied building to become damaged or to deteriorate into a state of disrepair such that the building is an imminent danger to public safety.

Overgrown Grass and Weeds

8. Notwithstanding the generality of Section 5, no owner or occupant of land shall cause or permit the land to be overgrown with grass or weeds.
9. For the purposes of this section, “overgrown” means in excess of 0.20 metres in height.
10. This section shall not apply to any growth which forms part of a natural garden that has been deliberately planted to produce ground cover, including one or more species of wildflowers, shrubs, perennials, grasses or combinations of them, whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.

Untidy and Unsightly Property

11. Notwithstanding the generality of Section 5, no person shall cause or permit any land or buildings to become untidy and unsightly.

Junked Vehicles

12. Notwithstanding the generality of Section 5, no person shall cause or permit any junked vehicle to be kept on any land owned by that person.

Open Excavations

13. Notwithstanding the generality of Section 5, no person shall cause or permit any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool or other structure to exist in or on any private land or in or about any building or structure which is dangerous to the public safety or health.

Maintenance of Yards

14. Notwithstanding the generality of Section 5, no person shall cause or permit on any property owned by that person:
 - a) an infestation of rodents, vermin or insects;
 - b) any dead or hazardous trees; or
 - c) any sharp or dangerous objects.

Outdoor Storage of Materials

15. Any building materials, lumber, scrap metal, boxes or similar items stored in a yard shall be neatly stacked in piles and elevated off the ground so as not to constitute a nuisance or harborage for rodents, vermin and insects.
16. Materials referred to in Section 15 shall be elevated at least 0.15 metres off the ground and shall be stacked at least 3.0 metres from the exterior walls of any building and at least 1.0 metres from the property line.

Refrigerators and Freezers

17. Any refrigerator or freezer left in a yard shall first have its hinges, latches, lid, door or doors removed.

Fences

18. Fences shall be maintained in a safe and reasonable state of repair.

Repeat Nuisance Service Calls

19. (a) Where police or Town officials have been required to respond to three (3) or more nuisance service calls for a single residential property within a twelve (12) month period in response to or for the abatement of nuisance conduct, activity or condition, the Town may impose upon the owner of that residential property an excessive nuisance abatement fee in accordance with the amounts prescribed in Appendix "B" of this bylaw for each additional nuisance service call responded to at that residential property within the twenty-four (24) month period following the Inspector's notice referred to in Section 19(b).
 - (b) Prior to imposing an excessive nuisance abatement fee, the Designated Officer shall first provide written notice to the owner of the residential property describing in reasonable detail the nature of the nuisance conduct, activity or condition that has occurred, been maintained or permitted in, on or near the residential property and:
 - i) informing the owner that the nuisance conduct, activity or condition must be abated within 60 days, or such other period of time as the Inspector considers reasonable in the circumstances, and steps taken to ensure that the nuisance conduct, activity or condition does not reoccur; and
 - ii) advising the owner that they may be subject to the imposition of excessive nuisance abatement fees for each additional nuisance service call responded to at the same residential property within the twenty-four (24) month period following the Inspector's notice, and that the imposition of such fees is in addition to the Town's right to seek other legal remedies or actions for abatement of the nuisance.
 - (c) Service of the notice referred to in Section 19(b) will be sufficient if the notice:
 - i) in the case of service on an individual, is served personally or mailed by prepaid registered mail to the address of the owner shown on the then current year's real property assessment roll for the residential property for which the notice is issued;
 - ii) in the case of service on a corporation, is served personally on a director, officer or manager of the corporation or by leaving it at or mailing it by registered mail to the registered office of the corporation.
 - (d) Excessive nuisance abatement fees shall be paid by the owner upon receipt of invoice from the Town. If the amount of each such invoice is not paid in full before the 31st day of December in the year received, upon written notice to the owner, the amount

shall be added to and form part of the taxes on the residential property, as taxes in arrears.

- (e) Nothing in this Section shall be construed to limit the Town's other available remedies for violation of this or any other Town bylaw.

Enforcement of Bylaw

- 20. The administration and enforcement of this bylaw is hereby delegated to the Administrator for the Town of Nipawin.
- 21. The Administrator of Nipawin is hereby authorized to further delegate the administration and enforcement of this bylaw to another employee of the Town of Nipawin.

Inspections

- 22. The inspection of property by the municipality to determine if this bylaw is being complied with is hereby authorized.
- 23. Inspections under this bylaw shall be carried out in accordance with Section 362 of *The Municipalities Act*.
- 24. No person shall obstruct a designated officer who is authorized to conduct an inspection under this section, or a person who is assisting a designated officer.

Order to Remedy Contraventions

- 25. If a designated officer finds that a person is contravening this bylaw, the designated officer may, by written order, require the owner or occupant of the property to which the contravention relates to remedy the contravention.
- 26. Orders given under this bylaw shall comply with Section 364 of *The Municipalities Act*.
- 27. Orders given under bylaw shall be served in accordance with Section 390 (1) (a), (b) or (c) of *The Municipalities Act*.

Registration of Notice of Order

- 28. If an order is issued pursuant to Section 25, the municipality may, in accordance with Section 364 of *The Municipalities Act*, give notice of the existence of the order by registering an interest against the title to the land that is the subject of the order.

Appeal of Order to Remedy

- 29. A person may appeal an order made pursuant to Section 25 in accordance with Section 365 of *The Municipalities Act*.

Municipality Remedying Contraventions

30. The municipality may, in accordance with Section 366 of *The Municipalities Act*, take whatever actions or measures are necessary to remedy a contravention of this bylaw.
31. In an emergency, the municipality may take whatever actions or measures are necessary to eliminate the emergency in accordance with the provisions of Section 367 of *The Municipalities Act*.

Recovery of Unpaid Expenses and Costs

32. Any unpaid expenses and costs incurred by the municipality in remedying a contravention of this bylaw may be recovered either:
 - a) by civil action for debt in a court of competent jurisdiction in accordance with Section 368 of *The Municipalities Act*; or
 - b) by adding the amount to the taxes on the property on which the work is done in accordance with Section 369 of *The Municipalities Act*.

Offences and Penalties

33. No person shall:
 - a) fail to comply with an order made pursuant to this bylaw;
 - b) obstruct or interfere with any designated officer or any other person acting under the authority of this bylaw; or
 - c) fail to comply with any other provision of this bylaw.
34. A designated officer who has reason to believe that a person has contravened any provision of this bylaw may serve on that person a Notice of Violation, which Notice of Violation shall indicate that the municipality will accept voluntary payment in the sum of One Hundred Dollars (\$100.00) to be paid to the municipality within thirty (30) days.
35. Where the municipality receives voluntary payment of the amount prescribed under Section 34 within the time specified, the person receiving the Notice of Violation shall not be liable to prosecution for the alleged contravention.
36. Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to Section 25 of this bylaw.
37. Every person who contravenes any provision of Section 33 is guilty of an offence and liable on summary conviction:
 - a) in the case of an individual, to a fine of not more than \$10,000;
 - b) in the case of a corporation, to a fine of not more than \$25,000; and
 - c) in the case of a continuing offence, to a maximum daily fine of not more than \$2,500 per day.

Severability

38. In the event that any portion of this bylaw is declared to be ultra vires by a Court of competent jurisdiction, then such portion shall be deemed to be severed from the bylaw to that extent and the remainder of the bylaw shall continue in force and effect.

Compliance With Other Statutes and Bylaws

39. This bylaw is not intended to relieve any person from complying with any other statute, regulation or bylaw relating to building construction and repair, fire safety or public health.

Repeal of Former Bylaws

40. Bylaw No. 837/05, and all amendments thereto are hereby repealed.

Coming Into Force

41. This bylaw shall come into force on final passing thereof.

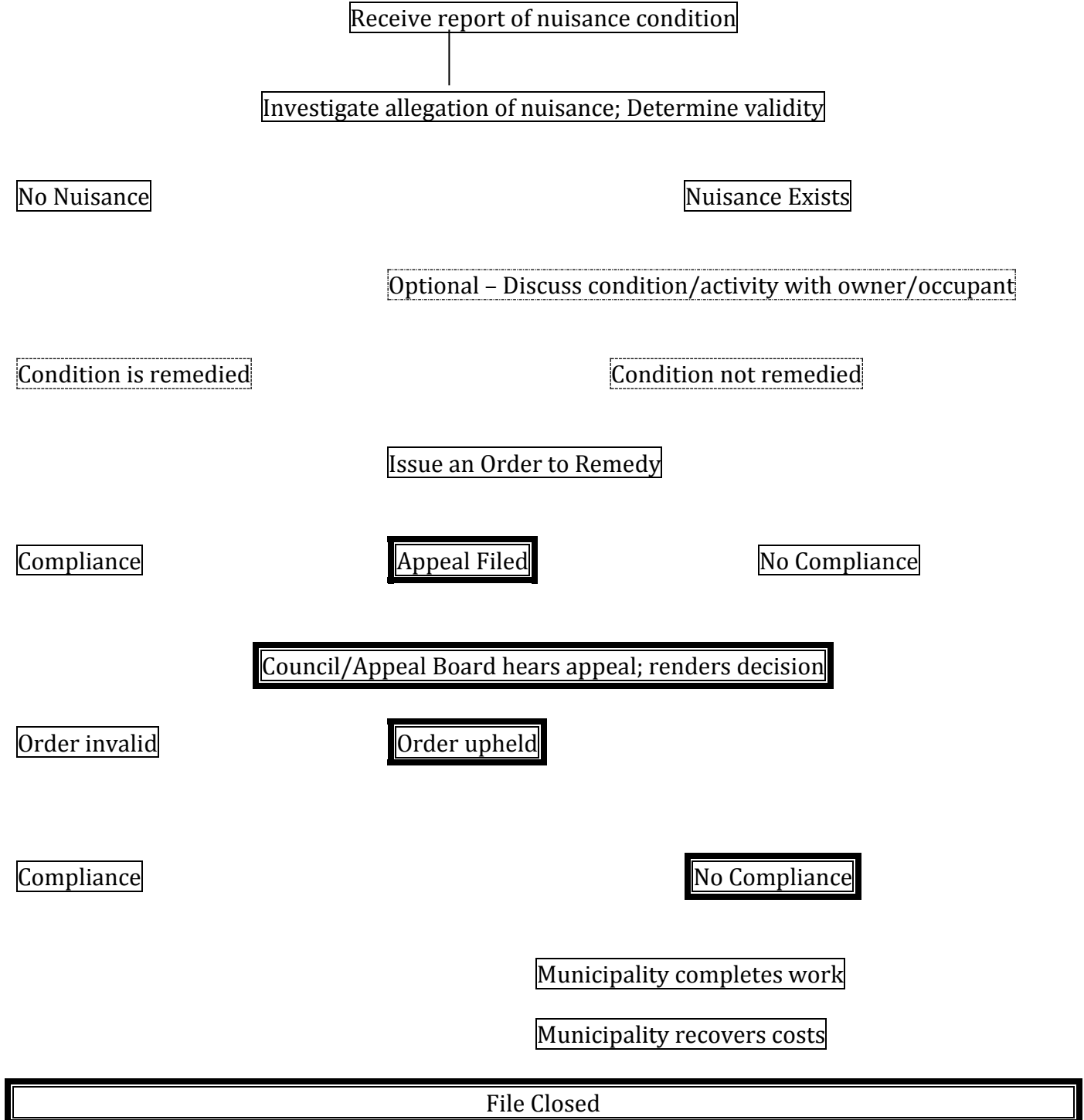
Mayor

Town Administrator

Read a third time and finally adopted
this__ day of ____, 2010.

APPENDIX 'A' ADMINISTRATIVE PROCESS

DESIGNATED OFFICER WITH FULL AUTHORITY:



The municipal response time to allegations of nuisance may be improved where the designated officer has complete authority to act.

APPENDIX "A"
EXCESSIVE NUISANCE ABATEMENT FEES

- 1. Police Nuisance Response and Abatement Service Call: \$195.00/call
- 2. Town Staff Nuisance Response and Abatement Service Call: \$50.00/hr
- 3. Administration Fee: 10% on Total Service Call Fees

Bylaw Enforcement Officer Call: \$195.00 / call
(Note: this fee is being considered as an addition to the bylaw)