

RURAL MUNICIPALITY OF GRAHAMDALE

UNDEVELOPED ROAD ALLOWANCES AND PUBLIC RESERVES

BY-LAW NO. 1075-2023

Being a By-Law of the Rural Municipality of Grahamdale to regulate and prohibit certain activities and things on undeveloped road allowances and municipal public reserve lands within the Municipality;

WHEREAS Division 2 and 3 of Part 7 of The Municipal Act L.M. 1996, c. 58 - Chap. M225 provides, in relevant part, that:

Section 231 - The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enhance the ability of council to respond to present and future issues in the municipality

Section 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;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- (o) the enforcement of by-laws

Section 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit

Section 236(1) Without limiting the generality of clause 232(1)(o) (enforcement of 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 nonpayment of fines.

Section 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.

Section 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.

Section 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 deemed desirable to regulate and prohibit certain activities and things on Undeveloped Road Allowances, Municipal Public Reserve lands, Municipal Open Space, Recreational and Institutional lands within the Municipality.

AND WHEREAS Section 138 of The Planning Act provides, in relevant part "Use and Disposal of Public Reserve Land"

NOW THEREFORE, the Council of the Rural Municipality of Grahamdale, in open meeting duly assembled, enacts as follows:

SECTION 1 - DEFINITIONS AND INTERPRETATION

By-Law Name

- 1.0** This By-Law may be referred to as the Undeveloped Road Allowances and Public Reserve By-Law.

Definitions

- 1.1** In this By-Law, unless the context otherwise requires,

"Designated Officer" means a building inspector or other official appointed by council, from time to time, to enforce this by-law.

"Municipal Warning" means a warning issued pursuant to Section 4.0 of this By-Law.

"Municipal Order" means an order issued pursuant to Section 4.0 of this By-Law in the form attached hereto as Schedule "B"

"Public Reserve Land" means land that is public reserve and deemed to be public reserve under the Planning Act.

"Structure" means anything that is erected, built or constructed of parts joined together or any such erection fixed to or supported by the soil or by any other structure (excluding fencing).

"Undeveloped Road Allowance" means land identified in the Dominion Government Survey as a road allowance.

Interpretation

- 1.2** 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.

SECTION 2 - SCOPE

- 2.0** This By-Law applies to Undeveloped Road Allowances and Public Reserve lands.
- 2.1** Section 138 of the Planning Act provides, in relevant part "Use of Public Reserve Land" Public reserve land may be used only for
- b) a public recreation area
 - c) a natural area
 - d) a planted buffer strip separating incompatible land uses; or
 - e) public works

SECTION 3-PROHIBITED

- 3.0** No person shall do the following actions on Undeveloped Road Allowances and Public Reserve Lands:
- a. archery
 - b. cutting or clearing of trees or brush
 - c. burning
 - d. dumping of any waste or waste materials
 - e. drainage works
 - f. commercial activity; and
 - g. any other activity which in the opinion of the Municipality is unsafe to the general public or adjoining property
- 3.1** No person shall place, plant or locate on Undeveloped Road Allowances and Public Reserve Lands:
- a. a structure of any type including, but not limited to fences, sheds, garages, gazebos, decks, patios or ponds
 - b. trees, hedges, shrubs, flowers including flower beds and gardens, gardens for the growing of produce or compost piles
 - c. ornamental or decorative lighting, whether lit by electrical power or by a combustible fuel; and
 - d. including, but not limited to private boat launches, buildings, structures (existing or future)
- 3.2** No person shall place, locate, or store on Undeveloped Road Allowances and Public Reserve Lands:
- a. Construction Equipment, Farm Tractors, Farm Equipment, Semi-trailers, Semi-trailer Trucks, Tractors, Truck Tractors, and Vehicles as defined in the Highway Traffic Act.
 - b. recreational vehicles including, but not limited to, camping trailers and motor homes, boats including canoes, kayaks, paddle boards, and paddle boats, snowmobiles, motorcycles, all-terrain vehicles and trailers for transporting recreational vehicles; and
 - c. any other items which in the opinion of the Municipality is unsafe to the general public or adjoining property
- 3.3** Despite sections 3.0, 3.1 and 3.2 if a person wants to carry out an action prohibited by this By-law, they must apply in writing to the Municipality for permission to carry out the action.

SECTION 4 – PERMISSION

- 4.0** A person may apply to the Municipality for permission to carry out an action. The application must include:
- a. a completed and signed application form – “Schedule A”;
 - b. information as to the location of the Undeveloped Road Allowance or Public Reserve and the proposed action to be carried out; and
 - c. a description of how the proposed action will benefit the applicant person applying for permission
- 4.1** The Designated Officer may require the applicant to supply any additional information the Officer feels is necessary to process and consider the application. The application is not complete until the requested information has been submitted.
- 4.2** Upon the application being completed to the Designated Officer’s satisfaction, the Officer shall refer the matter to Council for consideration.
- 4.3** The Municipality shall, in its unfettered discretion, consider the activity and/or thing and may, by resolution, approve the activity and/or thing prescribing conditions and terms of such approval. The municipality may provide the applicant with the approval form as set out in Schedule “C” as the Municipality, in its opinion, deems appropriate.
- 4.4** When approval is required, no action may take place on the Undeveloped Road Allowance or public reserve before the approval is obtained.
- 4.5** Council may assign an expiry date on the approval to a maximum of 5 years for each permit.

Owner’s Responsibilities

- 4.6** The applicant shall ensure at all times that their use of the Undeveloped Road Allowance or Public Reserve complies with this By-Law, the conditions under which the approval was issued, another by-law, or provincial laws and regulations.
- 4.7** The Municipal Order is non-transferrable and remains with the original applicant until the expiration of the Order.

SECTION 5 - ENFORCEMENT

- 5.0** The Designated Officer is authorized to enter upon any property within the Municipality for the purposes of determining compliance with this By-law and may
- a. enter upon the land at any reasonable time, without the consent of the owner or resident;
 - b. request that anything be produced to assist with such inspection; and
 - c. make copies of anything related to such inspection.
- 5.1** If the Designated Officer determines that an offense under this By-law has been or is being committed, the Designated Officer may issue a warning. The warning notice may include:
- a. Notification of the violation providing the section violated;
 - b. Notification of specific steps to be undertaken in order to come into compliance; and
 - c. Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance.
- 5.2** If the person has not complied by the follow-up inspection date, the Designated Officer may issue a Municipal Order. The Municipal Order may include:
- a. Notification of the violation of the section violated;
 - b. Notification of specific steps to be undertaken in order to come into compliance;
 - c. Notification of the date and time when a follow-up inspection will be undertaken to ensure compliance;

- d. Notification of the actions to be undertaken by the Municipality should the violation not be remedied and provide the date that the Municipality will take corrective action; and
- e. Notification of the appeal process

- 5.3** In accordance with the Municipal Act prior to the deadline, the offender may, in writing, submit an appeal to Council for their consideration. An appeal shall be submitted within fourteen (14) days from the date the Municipal Order is received. Upon the receipt of an appeal, a Council hearing date will be set. The offender will be notified of the hearing date.
- 5.4** After reviewing the Municipal Order, Council may confirm, vary, or substitute the Order.
- 5.5** Council may cancel the Municipal Order at any time and may provide up to 30 days notice for cancellation;
- 5.6** Should an extension be granted by Council, the Designated Officer shall re-inspect the property upon expiration of the extension. Upon re-inspection, should the person still not be in compliance with the by-law, the Designated Officer shall refer the matter to Council to determine the course of action to be carried out to enforce the Municipal Order and by-law.
- 5.7** The Municipality may take whatever actions or measures are necessary to remedy a contravention of this by-law, the Municipal Act or a permit. Such actions may include performing any work required or revoking a permit. If the person to whom an order was directed did not comply with the Municipal Order within the time specified, and the time for requesting a review of the Order has passed or the person requested that Council review the Order and Council did so and confirmed that the Municipality can take the ordered actions or measures.
- 5.8** The costs of actions or measures taken by the Municipality to carry out the terms of an Order or to enforce this by-law are an amount owing to the Municipality. In addition to the other rights of collection which the Municipality may have, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.
- 5.9** A person who contravenes this by-law or a permit is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00, to a penalty equal to the costs associated with or resulting from enforcing this by-law, the Act or a permit., and in the case of a contravention for failing to obtain a permit, to a penalty equal to the permit fee.

DONE AND PASSED in Council duly assembled in the Rural Municipality of Grahamdale in the Province of Manitoba, this _____, day of _____, 2023.

Craig Howse, Reeve

Shelly Schwitek, Chief Administrative Officer

Read a first time this _____ day of _____, 2023.

Read a second time this _____ day of _____, 2023.

Read a third time this _____ day of _____, 2023.

Schedule "A"

RURAL MUNICIPALITY OF GRAHAMDALE

UNDEVELOPED ROAD ALLOWANCES AND PUBLIC RESERVES

BY-LAW NO. 1075-2023

APPLICATION FORM

Date: _____
Name: _____
Ph: _____
Address: _____

Legal Description: _____
Ward: _____

Description of the proposed action:

Detailed description of the location where the proposed action is to be carried out:

Benefits of receiving approval for the proposed action:

Signature: _____

Schedule "B"

RURAL MUNICIPALITY OF GRAHAMDALE

UNDEVELOPED ROAD ALLOWANCES AND PUBLIC RESERVES

BY-LAW NO. 1075-2023

MUNICIPAL ORDER

Pursuant to s. 242 of *The Municipal Act*

To:
Address:
RE:
Reference #:

I, as the Designated Officer of The Municipality of Grahamdale, upon inspection, have determined that your property is in violation of By-Law #

THE FOLLOWING DEFICIENCIES ARE NOTED:

- 1.
- 2.

PURSUANT TO s. 246(1) OF *THE MUNICIPAL ACT* YOU ARE HEREBY ORDERED TO RECTIFY THE NOTED DEFICIENCIES BY COMPLETING THE FOLLOWING ACTIONS WITHIN () DAYS OF THE RECEIPT OF THIS ORDER.

- 1.
- 2.

NOTICE: IF YOU DO NOT COMPLY WITH THIS ORDER WITHIN THE TIME SET ABOVE, THE RURAL MUNICIPALITY OF Grahamdale MAY EXERCISE ITS AUTHORITY PURSUANT TO S. 242 (2)(b) OF *THE MUNICIPAL ACT* TO ENTER ON YOUR PROPERTY AND COMPLETE THE REQUIRED WORKS. THE COST OF THE PERFORMING SUCH WORKS WILL, BY STATUTE, BECOME A DEBT OWING BY YOU TO THE RURAL MUNICIPALITY OF Grahamdale.

APPEAL: Pursuant to s. 244(1) of *The Municipal Act*, you have the right to appeal to the Council of the Rural Municipality of Grahamdale **within fourteen (14) days of the receipt of this Order**. The Council of The Rural Municipality of Grahamdale has the authority to confirm, vary, substitute or cancel this Order. **AN APPEAL TO COUNCIL MUST BE A WRITTEN NOTICE** delivered to the Municipal Office, 23 Government Road, Box 160, Moosehorn, Manitoba, ROC 2E0 Phone (204)768-2858 Fax (204)768-3374 E-Mail info@grahamdale.ca

Re-Inspection Date:

DATE at Moosehorn, Manitoba this day of .

Recipient

Designated Officer,
Rural Municipality of Grahamdale

Schedule "C"

RURAL MUNICIPALITY OF GRAHAMDALE

UNDEVELOPED ROAD ALLOWANCES AND PUBLIC RESERVES

BY-LAW NO. 1075-2023

Approval Form

Date: _____ Council Resolution No: _____

Land Location: _____

Property Owner: _____

Conditions or Items Necessary for Compliance:

Expiry Date: _____

Re-inspection date: _____

For more information please phone: _____

Inspecting Officer: _____

Schedule “D”

RURAL MUNICIPALITY OF GRAHAMDALE

UNDEVELOPED ROAD ALLOWANCES AND PUBLIC RESERVES

BY-LAW NO. 1075-2023

Fines for the regulation and prohibiting of certain activities and things on Undeveloped Road Allowances and Municipal Public Reserve Lands within the Municipality

Fines and Penalty Schedule

| Provision of By-law | Description of Offence | Suggested Set Fine for 1 st Offense | Suggested Set Fine for 2 nd Offense | Suggested Set Fine for 3 rd Offense |
|---------------------|---|--|--|--|
| 3.0 | Failure to request permission by the municipality | \$100 | \$200 | \$400 |
| 3.1 | Failure to request permission by the municipality | \$100 | \$200 | \$400 |
| 3.2 | Failure to request permission by the municipality | \$100 | \$200 | \$400 |
| 4.1 | Failure to comply with warning | \$100 | \$200 | \$400 |
| 4.2 | Failure to comply with order | \$100 | \$200 | \$400 |
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