

THE MUNICIPALITY OF WESTLAKE-GLADSTONE

BY-LAW NO. 2022-13

BEING A BY-LAW to provide for the maintenance of property and the regulation and abatement of nuisances and unsightly property within the limits of the Municipality of Westlake-Gladstone.

WHEREAS the provisions of section 232 of The Municipal Act, R.S.M. 1988, c. M225 provide as follows:

Spheres of Jurisdiction

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;

Exercising by-law making powers

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

- (a) regulate or prohibit;
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of the property under ownership, direction, management or control of the municipality;

AND WHEREAS Section 233 of the Municipal Act provides as follows:

Content of by-laws under clause 232(1)(c)

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, odors, unsightly property, fumes and vibrations.

AND WHEREAS it is deemed expedient to pass a By-law for the purpose of maintaining property and regulating and abating nuisances and unsightly property that are detrimental to the safety, health, protection and well-being of the residents of the Municipality;

NOW THEREFORE Council of the Municipality of Westlake-Gladstone duly assembled enacts as follows:

Short Title

- 1 This By-Law may be referred to as The Municipality of Westlake-Gladstone Unsightly Properties By-Law.

Definitions and Interpretation

2(1) In this By-Law, unless the context otherwise requires:

- (a) "Council" means the council of the municipality, or any delegate thereof;
- (b) "Designated Officer" means a building inspector or any person appointed by Council as a by-law enforcement officer or any person appointed by Council from time to time to administer or enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer;
- (c) "Municipality" means the Municipality of Westlake-Gladstone;
- (d) "Nuisance" means any condition, matter, thing or activity, and includes the smoke from regular outdoor burning, which causes undue annoyance or offence to a reasonable individual of ordinary sensitivity occupying adjacent Properties or living in the neighbourhood;
- (e) "Occupier" means any person who occupies a property, including any person in actual or constructive possession of a property pursuant to a lease, tenancy license or other right to occupy;

- (f) "Owner" means the registered owner of a property according to the current assessment records of the Municipality and further includes a Person who is responsible for a property or managing a building or a property, whether on their own account or as agent or trustee of any other Person;
- (g) "Person" includes an individual, firm, partnership, corporation, association or other body, whether incorporated or unincorporated;
- (h) "Property" means the total of all contiguous land described in a single certificate of title whether or not there is situated thereon a dwelling house or any other building;
- (i) "Rubbish" means any garbage, trash, or junk including, but not limited to:
 - (i) unwanted or discarded household items including appliances, indoor furniture, dilapidated outdoor furniture, mattresses, and crates;
 - (ii) waste from building construction, demolition, remodeling and repair;
 - (iii) tree branches, grass and shrub clippings, weeds, leaves or other general yard and garden waste;
 - (iv) motor vehicle parts or tires;
 - (v) combustible items such as newspapers, magazines, packaging materials, waste paper, rags, bedding, wood, or cardboard;
 - (vi) non-combustible items such as tin cans, metals, pressurized containers, ceramics, metal foils, plastics, and glass;
 - (vii) dead animal carcasses;
 - (viii) ashes;
 - (ix) industrial refuse and hazardous waste;
 - (x) wrecked, dismantled, partially dismantled, inoperative, discarded or abandoned trailers, machinery or vehicles or parts thereof;
 - (xi) any deserted or discarded article, product or goods of manufacture; and
 - (xii) any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptable offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics; and
- (j) "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 nuisance to adjoining properties.

Application

- 3(1) Unless otherwise stated, this by-law applies to all properties in the Municipality, whether occupied or vacant, except streets and parks.
- 3(2) Unless otherwise stated, the obligation for compliance with this by-law is imposed on both the Owner and the Occupier of a property.
- 3(3) The obligation for compliance imposed on Occupiers is imposed only in respect of that portion of a property which they are legally authorized to occupy.

General Obligation to Maintain Property

- 4 Properties must be maintained so that they do not substantially depreciate the value of other land and buildings in the vicinity and are not an Unsightly Property.

Nuisance and Unsanitary Conditions

- 5(1) The Owner and Occupier must ensure that Nuisances and unsanitary conditions are not created or allowed to exist on any property.
- 5(2) The obligation imposed by subsection (1) includes the obligation to ensure that Properties and buildings are kept free of:
- (a) infestations of insects, rats, mice and other pests or vermin;
 - (b) any condition, matter, or thing that provides or may provide food or harbourage for pests or vermin.
- 5(3) Where infestation has occurred in contravention of subsection (2), the Owner and Occupier must abate any infestation through the use of:
- (a) traps and other self-abatement measures; or
 - (b) a monitored pest control program with a Certified Pest Control Agency,
- until such time as the infestation has been effectively abated as determined by and to the satisfaction of the Designated Officer.
- 5(4) Where infestation in contravention of subsection (2) is abated through the uses of a monitored pest control program with a Certified Pest Control Agency, the Owner and Occupier must:
- (a) maintain pest control records as created by a Certified Pest Control Agency;
 - (b) ensure that no part of any pest control records maintained under clause (a) is erased, removed, or otherwise obliterated; and
 - (c) produce pest control records for review by the Designated Officer upon demand.

Safety

- 6(1) Subject to subsection (2), Properties must be maintained so as to prevent the existence of objects and conditions that pose health, safety, fire or accident hazards to people, animals, or neighbouring Properties.
- 6(2) Subject to subsection (3), the obligation in subsection (1) includes the obligation to repair, remove, rectify or otherwise prevent the existence of:
- (a) buildings or structures that constitute a fire hazard or are likely to fall or cause an explosion or, in the opinion of the Designated Officer, are otherwise dangerous to public safety or property;
 - (b) uncovered and unguarded wells, holes, excavations and other openings;
 - (c) refrigerators and freezers that are not in use and other airtight containers that are large enough to hold a human being, unless the container is placed door-side down on the ground and:
 - (i) the container is incapable of being locked;
 - (ii) the lock on the door is capable of being released from the inside; or
 - (iii) the lock on the door has been removed; and
 - (d) sharp objects that could result in injuries, such as nails projecting from boards.

6(3) Where it is necessary:

- (a) for a temporary period in order to permit construction or for other valid reasons; or
- (b) for the use to which non-residential property is being put in accordance with the relevant zoning by-law;

that a property contain hazardous articles or materials or objects or conditions that pose health, safety, fire or accident hazards, it is not a contravention of subsection (2) if:

- (i) reasonable precautions are taken to prevent unauthorized individuals from entering the area;
- (ii) reasonable notice of the hazard is provided to individuals who may be harmed by it; and
- (iii) the existence in that location of the article, material, object or condition does not violate a by-law or other legislative provisions.

Rubbish

7(1) Rubbish must not be allowed to accumulate upon a property.

Vegetation

8(1) Plants and vegetation must be kept trimmed so as not to become unsightly.

8(2) Other than on Properties zoned for agricultural grazing and feeding and agricultural cultivation, grass must be kept trimmed to a maximum length as determined by the Designated Officer.

8(3) Noxious weeds, as defined in *The Noxious Weeds Act*, must be controlled on all Properties so as not to become a Nuisance to adjoining Properties.

8(4) Trees or shrubs on property must not be allowed to interfere with:

- (a) the Municipality's works, including sewer and water pipes, or the operations of the Municipality on a street;
- (b) pedestrian or vehicular traffic on a street;
- (c) motorists' or pedestrians' view of directional signs or traffic control devices; and
- (d) the sightlines of motorists or pedestrians.

Enforcement, Contravention and Fines

9(1) This by-law shall be enforced pursuant to the Municipality's General Enforcement By-law, as amended from time to time.

9(2) Any Person may allege a violation of this by-law by filing a written complaint with a Designated Officer in such form and with such particulars as the Designated Officer may from time to time require, and/or the Designated Officer may investigate based on their regular patrol of the Municipality.

9(3) Any Person who contravenes or disobeys or refuses or neglects to obey or comply with any provision of this by-law or any order made under this by-law and/or the Municipality's General Enforcement By-law is guilty of an offence and is liable to fines and penalties as set out in the Municipality's General Enforcement By-law.

9(4) Where an infraction of any of the provisions of this by-law continues for more than one (1) day, the Person is guilty of a separate and continuing offence for each day

such infraction continues.

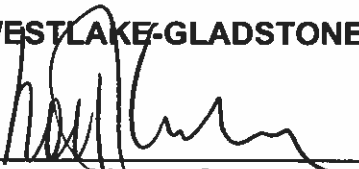
- 9(5) Where a Designated Officer determines that a contravention of any provision of this by-law has occurred, the Designated Officer may commence enforcement proceedings and issue and serve a notice of contravention and, if required, an order to remedy a contravention pursuant to the Municipality's General Enforcement By-law and the Municipality's enforcement policy and procedures.
- 9(6) A Person who receives an order to remedy a contravention may appeal such order in accordance with the Municipality's General Enforcement By-law and the Municipality's enforcement policy and procedures. Council's decision on the issue is final and not subject to further appeal.
- 9(7) The Municipality and/or the Designated Officer may take whatever action or measures are necessary to remedy a contravention of this by-law in accordance with the Municipality's General Enforcement By-law and the Municipality's enforcement policy and procedures.

General Provisions

- 10(1) This By-Law shall come into force and effect on the day it receives third and final reading by Council.
- 10(2) That the Town of Gladstone By-Law # 7-2000 and RM of Lakeview By-Law # 31-00 be hereby repealed.

DONE AND PASSED by the Council of the Municipality of Westlake-Gladstone, in Council duly assembled this 15th day of June, 2022.

MUNICIPALITY OF WESTLAKE-GLADSTONE



Mayor, Scott Kinley



Chief Administrative Officer
Coralie Smith, CMMA

Read a First time this 18th day of May, 2022.

Read a Second time this 15th day of June, 2022.

Read a Third time this 15th day of June, 2022.