

**BYLAW NO. 2022-05**

**NUISANCE BYLAW**

**A BYLAW OF THE TOWN OF LEMBERG TO PROVIDE FOR THE ABATEMENT OF  
NUISANCES WITHIN THE TOWN OF LEMBERG.**

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

**Short Title**

1. This Bylaw shall be known as the “Nuisance Bylaw”.

**Purpose**

2. The purpose of this Bylaw is to provide for the abatement of nuisances with the intent of promoting:
  - a. the safety, health and welfare of all persons residing in or visiting the Town of Lemberg;
  - b. the use and enjoyment of one’s own property except wherein said use and enjoyment infringes on another’s ability to use and enjoy his or her own property or presents a risk to anyone’s safety, health or welfare;
  - c. efforts to mitigate the objectionable nature of a nuisance when a mutually acceptable solution is achievable; and
  - d. the abatement of all nuisances wherein there is no benefit to any person in terms of use and enjoyment of property.
3. The *Canadian Charter of Rights and Freedoms* guarantees equal treatment under the law and, as such, the Town of Lemberg shall endeavour to enforce this Bylaw impartially:
  - a. Prohibited nuisances shall be clearly defined in order to avoid ambiguity and facilitate compliance; and
  - b. Prohibited nuisances shall be limited to those which the majority of the community as a whole can uphold as a community standard.

## Definitions

4. In this Bylaw:
  - a. “Administrator” means the Administrator (otherwise known as the Chief Administrative Officer) of the Town of Lemberg;
  - b. “building” means a building within the meaning of *The Municipalities Act*;
  - c. “Building Inspector” means the person(s) appointed by Council as the Building Official for the Town of Lemberg;
  - d. “clean skull” means an animal skull that has been completely cleaned of all flesh and blood, as may be used as a yard decoration.
  - e. “Council” means the municipal council of the Town of Lemberg;
  - f. “Designated Officer” means the Administrator, any other employee(s) appointed by the Administrator, or a contractor or any other person appointed by resolution of Council to exercise any rights and powers granted under this Bylaw in regard to enforcement;
  - g. “dilapidated structure” means any structure that is not sufficiently maintained in compliance with section 5 of this Bylaw.
  - h. “driveway” means any part of the property consisting of gravel, asphalt, concrete or paving stone which is used for the parking of vehicles or as an approach to a garage and excludes any such area wherein any item other than a vehicle is stored or located upon.
  - i. “Fire Chief” means the Fire Chief of the Lemberg & District Volunteer Fire Brigade;
  - j. “Foreman” means the Public Works Foreman;
  - k. “garden” means a part of the yard dedicated to the growth of edible or decorative plants (excluding those prohibited under this Bylaw).
  - l. “graffiti” means any drawings, inscription, writing or other mark that disfigures or defaces any structure, including but not limited to profanity, depictions of a sexual act or organ, offensive depictions of a religious or political figure, and anything perceived to be an attack on any person (the existence of any such condition is at the sole discretion of the Designated Officer).

- m. “overweight vehicle” means any tractor, tandem truck, semi-truck or any other self-propelled motorized vehicle with a curb weight exceeding 5 tonnes.
- n. “Municipality” means the Town of Lemberg;
- o. “nuisance” means any condition or state of property, object, activity, smell, noise or anything else of a safety or health concern or of an objectionable nature including but not limited to those prohibited in this Bylaw.
- p. “occupant” means an occupant as defined in *The Municipalities Act*;
- q. “owner” means an owner as defined in *The Municipalities Act*;
- r. “project vehicle/equipment” means any motorized vehicle/equipment that is self-propelled when in operating condition including but not limited to motorcycles, cars, SUVs, motorhomes, vans, and trucks, that:
  - i. cannot operate as a self-propelled vehicle in its current state due to a mechanical or other issue;
  - ii. is missing any of its wheels or is supported at any point on the ground by anything other than its wheels; or
  - iii. cannot be licensed for use due to safety deficiencies; and that
  - iv. is located on private land.
- s. “property” means everything within the legal boundaries of the lot or parcel and, where appropriate for the purposes of this Bylaw, will include the airspace above the ground level up to sixty-one (61) metres;
- t. “residential district” means any property zoned for residential use by the Zoning Bylaw of the Town of Lemberg.
- u. “sound of a persistent nature” means any sound occurring at a rate of at least twice per minute, if there is a pause between sounds, or any constant sound exhibiting no pauses.
- v. “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 including but not limited to buildings, accessory buildings and fences (but not including pavements, curbs, walks or open-air surfaced areas).

- w. “sufficiently screened” means:
  - i. fully screened from public view from any point directly outside the property line by a non-transparent fence at least 1.8 metres in height;
  - ii. located within a structure erected in accordance with the bylaws of the Municipality; or
  - iii. otherwise not visible from any reasonable vantage point outside the property, including but not limited to the windows of any building.
- x. “trailer” means any non-motorized vehicle designed to be attached to a self-propelled motorized vehicle of any kind and pulled.
- y. “yard” means any part of the property’s ground space whereupon there is no structure or driveway placed or resting atop.

### **Buildings and Structures**

- 5. The owner of any building or structure (including fences) in the Municipality shall ensure that the building or structure is maintained such that:
  - a. it does not pose a risk to any person’s health or safety, including but not limited to:
    - i. risk of fire, in the opinion of the Fire Chief;
    - ii. risk of collapse, in the opinion of the Building Inspector; and/or
    - iii. other risk of injury, in the opinion of the Designated Officer, due to:
      - 1. broken glass or other sharp hazards;
      - 2. any part of the building or any attachment to it that is not securely fastened;
      - 3. insufficient measures to prevent unauthorized entry in the case of an unoccupied or abandoned building;
      - 4. building exits not being maintained in a safe and unobstructed condition;
      - 5. accumulations of ice or other hazardous loose material above entrances/exits or egress windows;
      - 6. electrical wiring that is exposed (missing any protective covering deemed necessary by the Designated Officer);

7. overhead electrical masts that, in the opinion of the Designated Officer, are insufficient to support the electrical wire; and/or
        8. any other state deemed to be a risk of injury by the Designated Officer;
      - b. the roof of the building is fully intact and has not collapsed in any part; and
      - c. the building is sealed in order to prevent the sheltering or entry of any type of animal.
6. Each building, fence or structure not physically attached to the other shall be considered separately when determining if it is a dilapidated structure and whether repairs are required under this Bylaw.
7. No owner shall permit graffiti to remain on any structure.

### **Yard Maintenance**

8. The following shall not be permitted on any property:
  - a. The growth of any plants declared to be Prohibited under *The Weed Control Act*.
9. Except for vegetation described in section 10 of this Bylaw, vegetation shall not be permitted to grow in excess of 0.3 metres in height.
10. The following types of vegetation, except wherein the plant is prohibited otherwise by this Bylaw, shall not be subject to a height restriction:
  - a. Any type of tree, bush, shrub or vine;
  - b. Any part of a garden growing plants not intended for human or animal consumption, up to a maximum of 50% of the yard; or
  - c. Any part of a garden growing plants intended for human or animal consumption;
11. Any outdoor furniture that poses a risk of infestation by rodents or saturation by water is prohibited, including but not limited to:
  - a. Sofas, mattresses and any other padded furniture intended for indoor use which, for the purposes of this Bylaw, shall be any wherein the padding cannot be removed without causing damage to the furniture.

12. Except where sufficiently screened and in a state such that no person could be trapped inside, outdoor storage of appliances shall be prohibited including but not limited to:
  - a. Washing machines;
  - b. Dryers;
  - c. Dishwashing machines;
  - d. Freezers;
  - e. Refrigerators;
  - f. Ovens; and
  - g. Water heaters.
13. Piles of branches or other wood shall not remain on any property except where neatly stacked (in the opinion of the Designated Officer), intended for firewood or wood working projects, and occupying an area of less than 2.75 m<sup>3</sup>.
14. Dead trees shall be removed by the owner within a period of one (1) year.
15. Fallen or downed trees shall not be permitted by the owner to remain on the property.
16. Except where sufficiently screened, any building materials, lumber, scrap metal, boxes or other items stored in a yard shall be neatly arranged, in the opinion of the Designated Officer.
17. Animal carcasses or any part of an animal (hides, blood, etc.), excluding antlers or clean skulls, shall not be located in any yard
18. Except where all necessary safety precautions have been taken, in the opinion of the Designated Officer, hazardous chemicals, sharp objects or any other item or substance that pose a safety or health risk shall not be stored in any yard.
19. No owner shall permit water from downspouts (or otherwise redirected off of any structure) to flow onto any property that is not a municipal roadway or another area approved by the Designated Officer.

### **Storage of Vehicles**

20. No more than two (2) project vehicle/equipment, whether for repair or displayed for decorative purposes, may be located within any property unless sufficiently screened.

## Open Excavations

21. No owner or occupant shall cause or permit any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool, or hot tub to exist on any property without adequate fencing or other obstruction adequate to prevent injury, in the opinion of the Designated Officer.

## Smells

22. The use and enjoyment of a property shall not result in the emanation of foul odours beyond the boundaries of the property and these shall include:
  - a. smells resulting from the burning of anything other than wood, tobacco or other legal smoking products, incense, and citronella or like substances designed for use;
  - b. smells resulting from the outdoor storage of household waste or recycling;
  - c. smells resulting from rotten grain or vegetable matter, whether the result of a compost pile or not;
  - d. smells from animal carcasses, hides or any part of an animal (including blood); and
  - e. smells resulting from the urination or feces of animals, whether by pets owned by the owner or not.

## Trees

23. No person other than the Foreman shall:
  - a. Damage, disturb, prune, or remove any town tree;
  - b. Attach any notice, bill, poster, sign, wire, rope, cord, nail, or other object to or around any town tree;
  - c. Alter the grade level or drainage pattern in any manner as to interfere with the access of water, air, or nutrients to any town tree;
  - d. Remove or interfere with any protective barrier structure or device on or around any town tree;
  - e. Commence or continue any work or activity which damages or interferes with the root system or upper structure of any Town Tree; or
  - f. Plant a tree on public property
24. Dutch Elm Trees are not to be pruned during the provincial regulatory ban from April 1 to August 31 each year.

25. Dutch Elm Disease (DED) is a deadly fungus that can kill an elm in as little as three weeks by clogging its water-conducting vessels. Once a tree is infected by DED it needs to be removed and disposed of properly by either burying it or burning it.
26. Once a tree is determined by a Designated Officer or Foreman to have DED or is dead the tree must be removed within one (1) year by the property owner.
  - a. If the tree remains after one (1) year, the Town will remove the tree and place all associated costs on property owners tax roll.

### **Enforcement of Bylaw**

27. The administration and enforcement of this Bylaw is hereby delegated to the Designated Officer.
28. Unless a longer or shorter period is otherwise specified in this Bylaw and excluding nuisance conditions relating to a dilapidated structure (see section 35), the Designated Officer may permit a violation of any part of this Bylaw to exist for a period of up to two (2) months in order to allow the owner or occupant to remedy the bylaw contravention.
29. When a prohibited nuisance condition exists as a result of a dilapidated structure, the Designated Officer may only permit said violation to exist for a period of up to one (1) month.
30. Notwithstanding sections 34-35 of this Bylaw, when a prohibited nuisance condition exists as a result of construction, demolition, removal or renovation of a structure, the Designated Officer may permit the nuisance condition to exist for any longer time period.
31. Notwithstanding sections 34-35 of this Bylaw, Council may, by resolution, permit any prohibited nuisance condition to exist for any longer time period.

### **Inspections**

32. The inspection of property by the Designated Officer to determine if this Bylaw is being complied with is hereby authorized.
33. Inspections under this Bylaw shall be carried out in accordance with section 362 of *The Municipalities Act*.
34. No person shall obstruct a Designated Officer who is authorized to conduct an inspection or any person who is assisting a Designated Officer.

## **Order to Remedy Contraventions**

35. 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.
36. Orders given under this Bylaw shall comply with section 364 of *The Municipalities Act*.
37. Orders given under this Bylaw shall be served in accordance with section 390 of *The Municipalities Act*.

## **Registration of Notice of Order**

38. If an order is issued pursuant to section 34, 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**

39. A person may appeal an order made pursuant to section 44 in accordance with section 365 of *The Municipalities Act*.

## **Municipality Remediating Contraventions**

40. 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.
41. 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**

42. 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

43. 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.
44. 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 \$50.00 to be paid to the Municipality within 15 days.
45. Notwithstanding section 40, the Designated Officer may, on a first offence, issue a warning without penalty.
46. Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to section 34 of this bylaw.
47. Where the Municipality receives voluntary payment of the amount prescribed under section 40 within the time specified on the Notice of Violation, the person receiving such shall not be liable to prosecution for the alleged contravention; however, in accordance with section 42, if the nuisance condition continues to exist, an additional Notice of Violation may be issued upon the expiration of the period stated therein and, if unpaid within the time period, may result in prosecution despite voluntary payment being received for the former Notice of Violation.
48. Every person who contravenes any provision of section 39 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

49. If a Court of competent jurisdiction should declare any section or part of this Bylaw to be invalid, these shall not be construed as having persuaded or influenced the Council to pass the remainder of the Bylaw, and it is hereby declared that the remainder of the Bylaw shall be valid and remain in full force and effect.

## Repeal Previous Bylaw

50. Bylaw No. 2005-03 is hereby repealed.

## Coming Into Force

51. This Bylaw shall come into force and take effect on the date of final passing.

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Mayor

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Administrator

First Reading: July 18, 2022  
Second Reading: August 23, 2022  
Third and Final Reading: August 23, 2022

Certified a True Copy of Bylaw 2022-02  
adopted by Resolution of the Council  
of the Town of Lemberg, in the  
Province of Saskatchewan on  
the 23 day of August, 2022.

seal

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Administrator