

VILLAGE OF MARCELIN

BYLAW NO. 04/2005

Nuisance Abatement Bylaw

A **BYLAW** of the Village of Marcelin, in the Province of Saskatchewan, to provide for the abatement of nuisances within the Village of Marcelin.

THE COUNCIL FOR THE VILLAGE OF MARCELIN 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) **"Designated Officer"** means an employee or agent of the Municipality appointed by Council to act as a municipal inspector for the purpose of this Bylaw;
 - b) **"Building"** means a building within the meaning of *The Municipalities Act*;
 - c) **"Municipality"** means the Village of Marcelin;
 - d) **"Council"** means the Council of the Village of Marcelin;
 - e) **"Junked Vehicle"** means any automobile, tractor, trailer or other vehicle that
 - i) either:
 - 1) has no valid license plates attached to it; or
 - 2) is in a rusted, 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;
 - f) **"Nuisance"** means a condition of property, or 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 neighbourhoodand includes:
 - i) a building in a ruinous or dilapidated state of repair;
 - ii) an unoccupied building that is damaged and is an imminent danger to public safety;
 - iii) land that is overgrown with grass and weeds;
 - iv) untidy and unsightly property;
 - v) junked vehicles; and

- vi) open excavation on property;
- g) **“Occupant”** means an occupant as defined in *The Municipalities Act*;
- h) **“Owner”** means an owner as defined in *The Municipalities Act*;
- i) **“Property”** means land or buildings or both;
- j) **“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 the 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 combination 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 metre 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.

Enforcement of Bylaw

19. The administration and enforcement of this Bylaw is hereby delegated to the Administrator of the Village of Marcelin
20. The Administrator of the Village of Marcelin is hereby authorized to further delegate the administration and enforcement of this Bylaw to the Council and Maintenance Personnel of the Village of Marcelin.

Inspections

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

Order to Remedy Contraventions

24. If a Designated Officer finds that a person 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.
25. Orders given under this Bylaw shall comply with Section 364 of *The Municipalities Act*.

26. Orders given under this Bylaw shall be served in accordance with Section 390(1)(a),(b) or (c) of *The Municipalities Act*.

Registration of Notice of Order

27. If an order is issued pursuant to Section 24, 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

28. A person may appeal an order made pursuant to Section 24 in accordance with Section 365 of *The Municipalities Act*.

Municipality Remediating Contraventions

29. 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.

30. 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 Expense and Costs

31. 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

32. 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 person acting under the authority of this Bylaw; or
 - c) fail to comply with any other provision of this Bylaw.
33. 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 not more than ten thousand dollars (\$10,000) to be paid to the Municipality within thirty (30) days.
34. Where the Municipality receives voluntary payment of the amount prescribed under Section 33 with the time specified, the person receiving the Notice of Violation shall not be liable to prosecution for the alleged contravention.
35. Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant Section 24 of this Bylaw.
36. Every Person who contravenes any provision of Section 31 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 continuing offence, to a maximum daily fine of not more than \$2,500 per day.

Repeal of Former Bylaws

37. Bylaw No. 1/1969; and all amendments thereto are hereby repealed.

Coming Into Force

38. This Bylaw shall come into force on the first day of January, 2006.

Mayor

SEAL

Administrator

Read a third time and adopted
This _____ day of _____, 2005

Administrator

Sample Resolution:

That the Council hereby declares the

- building/ fence/ other type of structure(building/structural nuisance)
- land/ buildings (untidy/ unsightly premises)
- basement/ excavation/ ditch/ watercourse/ pond/ surface water/ swimming pool(excavation)
- vehicle/trailer (derelict/ junked vehicle)

located on [legal description of property], the civic address of the property being [civic address, if applicable] to be a nuisance under Section _____ of Bylaw No. 04/2005, the Nuisance Abatement Bylaw, for the following reason(s):

- *The same reasons that will be stated in the order*

That the Designated Officer is hereby authorized to issue an order to the [owner/occupant] of the said property [along with any other persons who should be notified, in the opinion of the Council] requiring [them/him/her] to undertake the following work:

- *The same actions as will be specified in the order;*

said work to be to be completed on or before the _____ day of _____, 20__;

And if the work noted above is not completed by the date noted above, the Municipality is authorized to take whatever steps are necessary to complete the work and recover costs.

Village of Marcelin
Box 39
Marcelin, SK S0J 1R0
(306) 226-2168

ORDER TO REMEDY

NAME: _____

ADDRESS: _____

RE: *[Legal Address of Property]*

NOTICE OF VIOLATION

TAKE NOTICE THAT in accordance with Section _____ of Bylaw No. _____ (the Nuisance Abatement Bylaw) the property described above has been inspected by the Village of Marcelin on _____, 2005;

(Building or Structural Nuisance)

THAT as a result of the above inspection, the building/ structure described as *[describe the building or structure, location on the property, etc]* on the land described above is hereby declared a nuisance because:

OR

(Untidy/ Unsightly Premises, Excavation, Unspecified Nuisance)

THAT as a result of the above inspection, the land id hereby declared a nuisance because:

OR

(Derekick/ Junked Vehicle)

THAT as a result of the above inspection, the vehicle/ trailer described as:

- *[describe the vehicle/ trailer- make, model, colour, serial number if obtained]* is hereby declared a nuisance because:

- *[state SPECIFIC reason(s) why the property is a nuisance]*

AND THAT the records of the Municipality show that you are the owner/ occupant [specify which] of the property described above.

ORDER TO REMEDY

Under authority provided by Section _____ of Bylaw No. _____ you are hereby ordered to remedy the above violation on or before *[specify date by when work should be completed]* by:

- *[state action required to remedy the contravention- be SPECIFIC and MEASURABLE]*

The remedial action noted above id to be completed no later than *[specify date- must be after deadline to appeal]*

RIGHT TO APPEAL

TAKE NOTICE THAT you are provided the right to appeal this Order; and

THAT the appeal may be filed with the Village of Marcelin no later than *[time and date- must be at least 15 days after the date of the order]*

TAKE FURTHER NOTICE THAT a hearing to consider your appeal will be held as follows:

TIME/DATE: _____

PLACE: _____
[if appeal hearings are pre-scheduled]

FAILURE TO COMPLY WITH THE ORDER

TAKE NOTICE THAT if you fail to remedy this contravention by the date set forth above or fail to file an appeal as stated above, the Municipality will proceed to undertake action to remedy the contravention; and

THAT all costs, less any amount received by the Municipality from selling or otherwise disposing of the property may be added to, and thereby forms part of, the taxes on the property.

Dated at _____,
in the Province of Saskatchewan,
this ____ day of _____, 20__.

Designated Officer

VILLAGE OF MARCELIN
Box 39
Marcelin, SK S0J 1R0
(306) 226-2168

ORDER TO TAKE EMERGENCY ACTION

NAME: _____

ADDRESS: _____

RE: [Legal address of property/ Civic address of property]

DECLARATION OF IMMINENT DANGER

TAKE NOTICE THAT in with accordance with Section _____ of Bylaw No. _____ (the Nuisance Abatement Bylaw), on *[date]* the Village of Marcelin has declared the building (or other structure or thing) *[identify if there is more than one building on the property]* located on the property described above to *[choose one of the following]*

- be an imminent danger to public safety
- pose a risk of causing serious harm to other property because of:
 - *[list conditions constituting a public hazard- be SPECIFIC]*

ORDER TO TAKE EMERGENCY ACTION

TAKE NOTICE THAT the records of the Municipality show that you are the owner/ occupant *[choose one]* of the property described above;

AND THAT under authority provided by Section _____ of Bylaw No. _____ you are hereby ordered to remedy the above condition by:

- *[state action required to remedy the condition- be SPECIFIC and MEASURABLE]*

The emergency action noted above is to be completed no later than *[specify when]*

FAILURE TO COMPLY WITH THE ORDER

TAKE NOTICE THAT if you fail to comply with this order, the Municipality will proceed to undertake the work;

AND THAT all costs, less any amount received with by the Municipality from selling or otherwise disposing of property may be added to, and thereby forms part of, the taxes on the property.

APPEAL

TAKE NOTICE THAT you are invited to attend the meeting of Council of the Village of Marcelin to be held on *[state date, time and location of meeting]* to make representations with respect to the need for this action or the intent of charging the cost of the emergency action against the said property.

Dated at _____,
in the Province of Saskatchewan,
this _____ day of _____, 20____.

Designated Officer

VILLAGE OF MARCELIN
Box 39
Marcelin, SK S0J 1R0
(306) 226-2168

NOTICE OF EMERGENCY ACTION TAKEN

NAME: _____

ADDRESS: _____

RE: *[Legal address of property/ Civic address of property]*

DECLARATION OF IMMINENT DANGER

TAKE NOTICE THAT in accordance with Section ____ of Bylaw No. ____ (the Nuisance Abatement Bylaw), on *[date]* the Village of Marcelin has declared the building (or other structure or thing) *[identify if there is more than one building in the property]* located on the property described above to *[choose one of the following]*

- be an imminent danger to public safety
- pose a risk of causing serious harm to other property because of
 - *[list condition constituting a public hazard- be SPECIFIC]*

ACTION

TAKE NOTICE THAT the municipality has taken the following action(s) *[choose one of the following]*

- to abate the danger to public safety
- to prevent serious harm to other property:
 - *[state the action or actions that were taken to abate the emergency]*

COSTS

TAKE NOTICE THAT the records of the Municipality show that you are the owner of the property described above;

AND THAT the municipality intends to recover from you the costs of the above action(s), specifically *[amount, in figures and words]*.

APPEAL

TAKE NOTICE THAT you are invited to attend the meeting of the Council of the Village of Marcelin to be held on *[state date, time and location of meeting]* to make representations with respect to the need for this action or the intent of charging the cost of emergency action against the said property.

Dated at _____
in the Province of Saskatchewan,
this ____ day of _____, 20____.

Designated Officer

VILLAGE OF MARCELIN
Box 39
Marcelin, SK S0J 1R0
(306) 226-2168

NOTICE OF VIOLATION

NAME: _____

ADDRESS: _____

RE: *[Legal address of property/ Civic address of property]*

NOTICE OF VIOLATION

TAKE NOTICE THAT the records of the Village of Marcelin show that you are the owner/ occupant *[specify which]* of the property described above;

AND THAT the Municipality has reason to believe that on or about the ____ day of _____, 20__ *[date of offence]* you did or did allow the following *[choose the appropriate word- action/ condition/ etc]*:

- *[describe the offence]*

in contravention of Section ____ of Bylaw No. ____ (the Nuisance Abatement Bylaw) to occur on the following property.

PENALTY

TAKE NOTICE THAT Section 36 of Bylaw No. 04/2005 states that every person who contravenes a provision *[or state specific Section number]* of this Bylaw is guilty of an offence and is liable on summary conviction to the following penalty;

- 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
- c) in the case of a continuing offence, to a maximum daily fine of not more than \$2,500 per day.

VOLUNTARY PAYMENT

TAKE NOTICE THAT the Municipality will accept a voluntary payment in the amount of *[insert amount in words and figures]*;

AND THAT upon receipt of the above voluntary payment within *[number]* days of the date of this Notice of Violation, a person shall not be liable to prosecution for the alleged contravention.

SUMMONS

TAKE NOTICE THAT failure to remit the voluntary payment to the Village of Marcelin within *[number]* days will result in the issuance of a Summons.

Dated at _____,
in the Province of Saskatchewan,
this ____ day of _____, 20__.

Designated Officer

REMEDIAL ACTION BY THE MUNICIPALITY

Resolution:

That the Municipality shall proceed to complete the work specified in an “Order to Remedy” issued to *[person’s name]* on *[date of order]* relative to a nuisance condition on *[legal and civic address of property]*.

NOTE:

- With the exception of emergency situations, the municipality may not proceed to complete the remedial action unless the appeal period has expired, or unless there has been a determination as the result of an appeal filed.

RECOVERING COSTS

Resolution:

That the costs incurred by the Municipality to complete the work specified in an “Order to Remedy” issued to *[person’s name]* on *[date of order]* relative to a nuisance condition on *[legal & civic address of property]*, specifically *[amount, in words and figures]*, said amount remaining unpaid, be added to and thereby form part of the property taxes of the previously described property.

NOTE:

- The above resolution presumes the municipality will send an invoice to the person as a first attempt to recover costs. If this is not part of the municipality’s cost recovery process, it should delete the phrase “said amount remaining unpaid”.

EMERGENCY ACTION TAKEN

Resolution:

That Council hereby declares the *[the building/ other structure]* located on *[legal land description of property]*, the civic address of the property being *[civic address, if applicable]* to *[select one of the following]*

- Be an imminent danger to public safety
- Pose a risk of causing serious harm to other property

For the following reason(s):

- *[the same conditions which constitute a public hazard as are described in the order]; and*

That the following actions be taken immediately to eliminate the danger:

- *[the same action as will be specified in the order]; and*

That the Administrator notify the owner of the said property by registered mail of the action taken by the municipality respecting the said property; and

That the owner be notified the Municipality intends to recover from the owner all costs associated with eliminated the danger on the said property; and

That the owner be invited to appear before the Council at a meeting to be held on *[time, date, and location of meeting]* to make representations if he or she disputes the need for the action(s) or the intent to recover costs.

NOTICE OF VIOLATION

Resolution:

That the Municipality has reason to believe that *[name and owner or occupant]* has violated Section ____ of Bylaw No. _____; and

That the Municipality intends to prosecute *[name of owner or occupant]* with respect to this violation and hereby instructs the Administrator to serve notice of violation on *[name of owner or occupant]*; and

That on or after *[the day after the deadline for making voluntary payment]*, the Administrator shall take steps to issue a summons to *[name of owner/ occupant]* except and unless if the voluntary payment is paid to the Municipality.