



Saskatchewan  
Ministry of  
Government Relations

# MUNICIPAL NUISANCE GUIDE



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## Introduction

A “nuisance” is defined in The Concise Oxford Dictionary as an annoying action or anything disagreeable or inconvenient. What is considered to be a nuisance to one person may well be, in the opinion of some other person, as their right to do something or to permit something to be done on their property in their capacity as an owner or occupant. In general terms, a nuisance refers to any interference with a person’s enjoyment of their property.

Often, a person who is adversely affected by the nuisance will turn to their municipality for assistance to remedy the situation. Previous legislation specifically identified municipal nuisances and included such issues as junked vehicles, untidy and unsightly premises, excavations and buildings or structures which pose a hazard to public safety. *The Municipalities Act* (the Act) provides authority for municipalities to enact bylaws respecting nuisances, including property, activities or other things which may affect the amenity of the surrounding area.

The Courts have recognized that in dealing with nuisances, they must balance the reasonable use of land by one person against the potentially unfavourable effects of that use to neighbours and, in some cases, the community as a whole. The discretionary power provided to Saskatchewan municipalities is extensive, and therefore requires council to carefully consider the actions and policies best suited for the community.

- What constitutes a nuisance in the community?
- What action will be taken by the municipality to abate nuisances in the community?
- What rights are available to the property owner who disagrees with the municipality’s assessment of the nuisance?
- What action will be taken if the property owner refuses to comply with municipal directives to remedy the nuisance?

This document is intended as a guide for elected officials and administrators in their efforts to provide a nuisance abatement policy for their community. Municipalities are responsible for making local decisions, including compliance with any applicable statutes or regulations. The guide is not intended and should not be considered as a substitute for legislation. **Persons using this guide are encouraged to always refer to the actual wording in the Act or other relevant legislation.**

## Bylaw Requirements and Recommendations

This section is intended to provide direction regarding powers that a municipality may include within its bylaw. Municipalities may wish to amend or exclude some parts of the sample bylaw provided within this guide.

The Administrative Issues section of this guide provides more detailed information regarding administration and enforcement of the bylaw.

### ***Why is a bylaw needed?***

Section 8 of the Act empowers Saskatchewan municipalities to enact bylaws respecting “nuisances, including property, activities or things that affect the municipality” if council considers it expedient to do so. Until such time as council enacts a bylaw, the municipality will be unable to take corrective action to remedy nuisances.

The bylaw will target two audiences – the person who is affected by a nuisance, and the person who creates a nuisance. In general terms, the bylaw will set out:

- what constitutes a nuisance warranting attention by the municipality,
- how the bylaw will be enforced, and
- the consequences associated with non-compliance.

In framing the document, the municipality may wish to include references to a short title, the purpose of the bylaw, and the effective date of the bylaw.

### ***Definitions***

Terms which have specific meaning in relation to a nuisance abatement bylaw should be defined to ensure that persons who read the bylaw share the same interpretation of the word or phrase. Many of the definitions are drawn from previous legislation.

Many terms are already defined in section 2 of the Act. Terms identified in the Act which likely will be used in the bylaw include buildings, occupant, owner, and property. The municipality may choose to redefine the terms in full or reference the definition provided by the Act. For example, an owner may be defined either as:

1. “a person who has any right, title, estate or interest in land or buildings other than that of a mere occupant, tenant or mortgagee”; or
2. “an owner within the meaning of *The Municipalities Act*”

If the term is not defined within the bylaw, its interpretation may become an issue.

Municipalities may consider it advisable to specifically define the following terms in the bylaw:

- Act – means *The Municipalities Act*
- Council – this will be the Council of the municipality.
- Designated officer – this is the person who will be responsible to administer the bylaw, including inspecting property and issuing remedial orders to property owners. Municipalities may wish to use alternative terminology such as “inspector” or “bylaw enforcement officer”.
- Junked vehicle – as described in previous legislation, these are vehicles which may not have current license plates attached to it or are otherwise in poor condition (rusted, partly or wholly dismantled, partly or wholly wrecked, inoperative or abandoned). In addition, the junked vehicle is located in the open on private property not associated with a business enterprise lawfully being operated.
- Nuisance – means a condition of property or a thing or an activity that affects or has the potential to affect the amenity of a neighbourhood or the safety, health and welfare of people in the neighbourhood. The definitions may illustrate typical types of nuisances that the municipality anticipates within the community.
- Municipality – should clearly reference the full legal name of the local government authority. Municipalities may wish to utilize other terms such as “RM”, “Town” or “Village”.
- Structure – means something that is constructed or erected
- Untidy – means lands or building that are in a disorderly, slovenly, and littered condition and are not kept in generally good order.
- Unsightly – means lands or buildings that are unpleasant to look at or are aesthetically objectionable.

### ***What constitutes a nuisance?***

Nuisance is a subjective issue – something that is determined by personal opinion. What is considered to be a nuisance by one person may well be considered by some other person as their right to do something or to permit something to be done on their property in their capacity as an owner or occupant.

An allegation of nuisance needs to be assessed by the municipality to determine the validity of the complaint. Municipalities have local autonomy to determine the method of assessing the existence of nuisance situations. The definitions contained within the bylaw will provide guidance to those charged with administration and enforcement of the

bylaw as well as to the citizens who will be affected by the alleged nuisance. While some definitions may be explicit – junked vehicles, as an example – the description of untidy or unsightly premises may be less clear.

In addition to aesthetic nuisances, municipalities have authority to intervene in cases where an activity occurring on a property interferes with the ability of other persons to enjoy their property. Examples may include such things as mowing grass in the very early hours of the day, employing improper compost methods, or any other thing(s) a person might do that bothers their neighbour(s). It is unlikely that a municipality might wish to attempt specific identification of this type of nuisance. The definition of nuisance may or may not include “an activity”; however if it does include that term, the municipality may need to structure a process to assess allegations of this type of nuisance.

The bylaw will impose responsibility on owners to not permit nuisances on their property. Specific offences may be established by statements to requiring owners to ensure that certain things do not happen on their land, such as:

- Allowing buildings to become dilapidated;
- Allowing property to become unsightly or untidy;
- Allowing excavations to exist; or
- Allowing junked vehicles to be kept.

Council will determine which nuisances will be addressed in the bylaw. Council may also determine if they wish to include all or some nuisances in one bylaw, and have other bylaws for other specific nuisances. For example, the municipality may prefer to have a separate bylaw for untidy and unsightly premises or for nuisance vehicles. The sample bylaw contained in this guide proposes consolidation of property nuisances into a single bylaw.

### ***What enforcement options are available?***

To enforce a nuisance abatement bylaw, the municipality may:

- Investigate alleged reports of a nuisance;
- Issue an order to the owner or occupant to remedy the contravention and to prevent reoccurrences; or
- Register an interest against the title to the land.

### **Investigating nuisances**

The municipality may investigate nuisances on its own initiative or as the result of an allegation presented by a citizen. A municipality may authorize a designated officer to enter private land or buildings for the purpose of carrying out an investigation. In some circumstances, the municipality may need to apply to a justice of the peace or a provincial court for a warrant to enter private land or buildings. The manner of the investigation, and the powers and responsibilities of the designated officer are prescribed

in sections 362 and 363. In most circumstances, however, it should be possible to investigate an allegation of nuisance without the need to enter private land or buildings.

## **Issuing remedial orders**

The bylaw confirms that the designated officer has authority to issue an order to a person where it has been determined that a bylaw contravention may have occurred. To visibly demonstrate procedural fairness particularly in smaller communities, the designated officer may request council to develop a process to evaluate nuisance allegations.

The bylaw may specify the manner in which the order is to be served on the owner or occupant of the property. The order will contain the information required by section 364 of the Act, and may include forms for use by the designated officer. The bylaw may authorize the designated officer to amend the forms provided the amendment does not affect the substance of the form.

## **Right to appeal**

Owners or occupants are provided the right to appeal the order issued by the municipality. The owner or occupant may hold the opinion that the allegation of nuisance is unfounded or that the remedial action ordered by the designated officer is excessive or unreasonable. The appeal process enables the owner or occupant to formally discuss the matter; however an appeal does not provide a stay of the order.

Council may appoint a local appeal board for the purpose of hearing appeals from persons who are in receipt of an order made pursuant to section 364. Council may wish to give consideration to some or all of the following where they elect to establish a local appeal board:

- Appointees
  - Number of members
  - Eligibility criteria – citizens, elected officials, or a combination of citizens and elected officials
  - Term
  - Remuneration
- Procedures
  - Quorum
  - Process to schedule a hearing

Where a local appeal board is not established, the appeal shall be heard by the council.

The council or the local appeal board may

- uphold, amend, or overturn the order, or
- substitute its own order or decision for the order or decision being appealed.

The owner or occupant has a further right of appeal from the council or the local appeal board to the Court of Queen's Bench on a question of law or jurisdiction.

## **Interest registered against the land**

The municipality may register an interest against the title to the land on the basis of an order that is issued by the designated officer. The interest registration is binding on the owner, and on any subsequent owner of the land. The interest registration is withdrawn either when:

- the remedial action specified within the order has been undertaken, or
- the municipality has recovered its costs in those situations where the municipality performed the remedial action.

## ***Consequences of non-compliance***

In many instances, the owner or occupant will comply with enforcement or pre-enforcement activities. Where there is non-compliance, the municipality may:

- Undertake the remedial activities at the expense of the owner or occupant of the property; or
- Establish fines for contraventions or repeated contraventions.

## **Remedial action by the municipality**

The remedial order issued by the designated officer may contain a statement to the effect that the municipality may undertake the directed activity in the event of non-compliance by the person receiving the order within the specified time. The municipality may not undertake these remedial actions until either:

- the appeal period has elapsed, or
- if an appeal has been made, the appeal has been decided and the municipality's ability to take remedial action has been upheld.

If the municipality's costs are not paid by the person who contravened the bylaw, it may recover those costs either by civil suit or by adding the amount to the tax roll relative to the parcel of land where the bylaw contravention took place.

The bylaw should reference legislative authority to undertake remedial action and to recover costs as provided in sections 366, 368 and 369 of the Act.

## **Fines**

Section 388 of the Act enables municipalities to establish fines for bylaw violations. Where a municipality decides to exercise this discretionary authority, council should determine the amount of penalty associated with each offence. The process to compel a person to pay a fine would involve summary conviction, although the municipality may also implement a process to enable a person to voluntarily pay a specified sum to avoid prosecution for the offence.

## **Administrative Issues**

This section of the guide is intended to provide guidance regarding the design and development of the administrative process and enforcement of the municipality's nuisance abatement bylaw.

The administrative process respecting the nuisance abatement bylaw is developed by council and administration in accordance with local expectations. The process can be summarized as:

1. gaining awareness of the nuisance situation;
2. investigating the allegation;
3. issuing an order to remedy where the situation warrants this action; and
4. completing the work in the event of non-compliance by the person receiving the order.

Points 2 and 3 are likely to be the areas most subject to public scrutiny. The designated officer will become aware of a nuisance situation either by his or her own initiative or as the result of a report filed by a staff person, an elected official or a citizen. The decision of the municipality to proceed with work ordered is essentially decided upon by the inaction of the person upon whom the order is served.

To assist councils and staff in the development of an administrative process, this section will discuss the role of the designated officer, the role of a committee or council, and the procedural stages involved in the enforcement of the bylaw.

### ***Appointment of a Designated Officer***

Section 364 of the Act specifies that an order to remedy must be written by the Designated Officer.

Section 19 of the sample bylaw within this guide includes a provision assigning the Administrator / Clerk responsibility for administration and enforcement of the nuisance abatement bylaw. If the municipality chooses to leave section 19 in the sample bylaw, a resolution to appoint a designated officer is not required; however an amendment to the bylaw will be required to appoint some other person as the Designated Officer.

The appointment of the Designated Officer may be accomplished by resolution. A specified term for the appointment requires council to review that decision from time to time which provides an opportunity for evaluation and reconsideration; however a failure to undertake the review in a timely fashion may invalidate an action taken by the Designated Officer.

In the absence of council specifying the Designated Officer, this responsibility and others associated with that position will default to the administrator or clerk of the municipality. Reliance on the default position, however, may lead to questions at some future time whether the imputed delegation mirrored council's intent, or if the absence of a designation was an oversight. To clarify this situation, the municipality may consider an appointment, perhaps even on an annual or other periodic basis, to confirm council's intention that the administrator carry out the responsibilities assigned to the Designated Officer.

A sample resolution is provided in Appendix "B-1".

### ***Process Prior to Writing of Order***

Legislation does not prescribe the process before the designated officer writes the order to remedy a nuisance. The council may wish to set out the steps leading up to the issuance of an order.

An established process demonstrates procedural fairness and consistency. This process would not necessarily need to be included in the bylaw. Defining the process as a policy simplifies modification if deemed necessary. In developing this policy the council may want to consider:

- What or who will activate the process?
  - For example will a complaint from a ratepayer, staff or council member activate the process, or will the council or designated officer actively search for potential nuisances, or will it be a combination of both?
- What degree of authority will be delegated to the designated officer?
  - Should the designated officer consult with the entire council, a committee or other authorized personnel before making his/her determination regarding the validity of an alleged nuisance?
  - Will the municipality provide the designated officer with full and complete authority to act?
  - Is there a desire to establish variable options contingent on the type of nuisance? Determining the validity of some nuisances may be straightforward, while others may be subjective in nature. It may be desirable to consult where remedial action warrants removal and/or destruction of buildings or vehicles. Alternatively the council may wish the designated officer to consult for all types of nuisances, or council may authorize the designated officer to proceed on his or her own judgment in all situations.
- What activities are required as part of the process to investigate an allegation of a nuisance condition?

- Will the municipality register an interest in the Land Titles Registry against the title of the land that is subject to the order?
  - Under what circumstances would the municipality consider this option? The authority for a municipality to register this interest is in subsections 364(5) (6) and (7). If an interest is registered it will run with the land and is binding on the owner and/or any subsequent owner. This interest shall be removed once the order is complied with or the municipality has performed the action and has recovered the costs. This may be a consideration for those nuisances requiring significant remedial action.
- How will the process differ in the case of an emergency? (Refer to the section Emergencies in this guide.)

Appendix “A” contains flowcharts illustrating two processes – one in which the Designated Officer is fully authorized to act; and a second process where input from council or a committee is required.

## **Assessing the Nuisance / Investigation**

Prior to taking any action regarding an alleged nuisance, the subject property should be inspected by the designated officer and any other person with whom he or she must consult in accordance with council policy. Inspections under the bylaw shall be carried out in accordance with section 362 of the Act.

Designated Officers, who are authorized to conduct an inspection under this section, including persons who are assisting them, have legislative protection to carry out their duties without obstruction by other persons.

Although these steps are not a statutory requirement; the council may wish to incorporate some or all of them into their process.

- Make notes of all verbal complaints about the alleged nuisance, including detailed notes of any person that have appeared before the council.
- Keep copies of all written complaints.
- Inspect the site and take pictures. If possible use a camera that includes the date on the picture. Who will do the site inspection? Be careful not to trespass on the property. Specific requirements for inspections are outlined in sections 362 and 363 of the Act.
- The designated officer may wish to discuss the situation with the owner or occupant of the property. The situation may be remedied without taking formal action; on the other hand, this step may delay remedial action being taken by the municipality.
- A warning letter may be sent to the affected person before considering the property to be a municipal nuisance, particularly in those situations where council remains actively involved, to initiate the process. Give the person every opportunity to remedy the situation before Notice of an Order is sent.
- Deal with the affected person in writing. In some situations, however, a positive response may be more achievable by personally discussing the situation.

- Have witnesses when dealing with the affected person.
- Send all official correspondence to the person by registered mail.
- If the municipality is performing the work, video the work being done if possible. If a video is not possible take before and after dated pictures.
- Keep accurate records of the costs involved, which may be added to the taxes.
- Keep accurate records of everything you do in connection with the ‘order’.
- If necessary consult with your solicitor.

## ***Order to Remedy the Contravention***

The order to an owner or occupant of property to remedy a contravention of the nuisance abatement bylaw shall be issued by the designated officer. The municipality’s administrative procedure will determine the steps to be taken prior to the designated officer issuing that order.

The Act also provides that the municipality shall serve the order on the person to whom the order is directed. Service is made in any manner consistent with section 390. The order is required to contain certain information, such as information regarding an ability to appeal the order, the remedial action specified by the municipality, when that action is expected to be complete, and the consequences of non-compliance.

The sample forms provided in Appendix “B” generally contain the following information:

- The name and address of the person receiving the order;
- The legal and / or civic address of the subject property;
- A statement stating that a nuisance situation exists on the subject property;
- How or why the property meets the definition of nuisance provided for within the bylaw;
- Confirms that the municipality shows the recipient to be the owner or occupant of the property;
- Direction regarding the action that is being ordered; and
- Clause 364(4)(b) provides authority to direct the person to undertake any action necessary to remedy the contravention of the bylaw and also list possible orders that may be included. The remedial actions should be specific and measurable.
- The municipality should be prepared for non-compliance by the person receiving the order. For example, options to remedy a nuisance fence situation may be remedied either by repairing the fence or by removing it. If the municipality is forced into acting and its preference is to remove the fence rather than repairing it for the person, the remedial action should specify removal rather than repair. The remedial actions available to the municipality are limited to those actions specified in the order.
  - A deadline for completion of the work to be done.
    - Remember that the municipality is required to allow 15 days after the order for a person to appeal. In this time frame consideration should be given to the length of time it will take to hear an appeal and then the length of time to complete the remedial action required.

- Notification that an appeal is available
  - Inform the recipient by when an appeal must be filed, and to whom should he or she direct that appeal.
  - The order may contain a statement indicating the date, time and place that the appeal hearing will be heard. While not legislatively required, this may be a documented method of providing notification of hearing which provides the appellant an opportunity to plan for the hearing.
- A statement advising that where a person does not comply with the directions within the specified time, the municipality may take the action or measure at the expense of the person.

Appendix “B” illustrates examples of resolutions and forms of remedial orders for council and administration to consider in the development of this phase of the municipality’s administrative process.

Where the municipality’s administrative procedure requires the designated officer to obtain authorization from a committee or from council prior to issuing an order to remedy a contravention, it is imperative that specific components of the resolution parallel components within the order:

- The legal and/or civic description of the property;
- The reason(s) why the subject property is declared a nuisance;
- The action required to remedy the situation; and
- The deadline by which the remedial action must be completed.

## **Building / Structural Nuisance**

The building / structural nuisance refers to a building / structure that is dangerous to the public safety/health, but not to the extent warranting classification as an emergency, or where the building / structure substantially depreciates the value of other land or improvements in the vicinity because of faulty construction, a ruinous or dilapidated state or for any other reason. Typical examples of building or structural nuisance will include:

- building is in a ruinous or dilapidated state.
- fence is unpainted, fence posts are not property aligned, fence contains broken and/or rotten boards.

Remedial action may include demolishing or removing the offending building or structure, however repair or renovation may be an option.

- If the remedial action involves an action to comply with some other bylaw (e.g., a demolition or moving permit pursuant to the municipality’s Building Bylaw), the designated officer may consider it advisable to include that type of information.
- If the remedial action involves demolition or removal of a major structure, the municipality is advised to provide a copy of this notice to any party who has a registered interest relative to that structure (e.g., mortgage, the registered owner if the notice is directed to an occupant, etc.)

Examples of remedial actions include:

- demolishing and removing the said building / structure and [if applicable] filling in any open basement or excavation on the site after the demolition or removal.
- remedying the condition of the fence, specifically
  - realigning the posts;
  - replacing broken and/or rotten boards; and
  - painting the fence.

The specified deadline should be sensitive to the potential public hazard and/or the comfort of neighbourhood as well as providing a reasonable amount of time for the owner / occupant to comply with the order. A reasonable length of time might be 20 to 45 days after the deadline to appeal.

Draft resolutions and orders are contained in Appendix “B-2”.

## **Unsightly / Untidy Premises**

The untidy / unsightly premises nuisance is typified as conditions which are visually unappealing. Generally, the remedial action is labour intensive and does not involve the demolition or removal of valuable property. Examples include:

- Overgrown vegetation, bushes, shrubs;
- Lumber, metal, furniture or other debris scattered about;
- Broken or damaged windows / doors.

The remedial action to be taken involves labour and/or the removal of inexpensive goods. Examples include:

- Cutting grass and/or weeds to a height not exceeding 5 centimetres (or some other specified height);
- Stacking all lumber at least 0.15 metres off the ground, said stack to be located at least 3.0 metres from the exterior wall of any building and at least 1.0 metre from the rear or side property line;<sup>1</sup>
- Removing all furniture or other debris;
- Repairing or replacing the front storm door.

The specified deadline to complete the work may be fairly tight to alleviate neighbourhood concerns. Demolition or removal of valuable property typically is not a factor in this situation. One or two days after the deadline to appeal should not be considered unreasonable.

Draft resolutions and orders are contained in Appendix “B-3”.

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<sup>1</sup> These measurements are illustrative only; modify to meet local standards.

## Excavation Nuisance

The excavation nuisance will be a basement, drain, ditch, watercourse, swimming pool or other type of hole which presents a hazard to the public safety and health. As an example, an open basement does not allow water to drain. The reasons, which do not need to be specified, may be debatable or controversial, may include factors such as:

- A child or other person who is trespassing on the property may become injured;
- The excavation provides a breeding ground for mosquitoes;
- The open excavation is unsightly.

The remedial action includes activities such as:

- Filling in the open basement;
- Installing a fence around the excavation. The fence shall be at least 1.5 metres (5 feet) with openings not exceeding 2.5 centimetres (1 inch).<sup>2</sup>

The amount of time provided to the person to complete the work may vary, depending upon the degree of risk to the public. Previous legislation did not speak to this issue.

Draft resolutions and orders are contained in Appendix “B-4”.

## Derelict / Junked Vehicle Nuisance

Current legislation does not define the term “junked vehicle”. The municipality is required to do this within its bylaw. A junked or derelict vehicle, under previous legislation, referred to a vehicle located in the open on private property which was not part of a business enterprise lawfully being operated on that property, and said vehicle either unlicensed, or in a rusted, wrecked, partly wrecked, partly dismantled, inoperative or abandoned condition.

The municipality may wish to seek advice from the municipal solicitor prior to defining it in some other fashion.

Vehicles are defined within *The Traffic Safety Act* as devices on which a person or thing may be transported on a highway (e.g., automobiles, tractors, trucks, trailers, etc.)

When describing the subject vehicle, accuracy is more important than detail. Many vehicles are very similar in style or it may difficult to ascertain the year of the vehicle particularly from a distance. A more general description is less likely to be challenged than an incorrect detail. Examples include:

- A two-tone brown half-ton truck, rather than
- A 1985 F-150 Ford two-tone brown half-ton truck.

A key factor in the definition of a junked or derelict vehicle is the location of the vehicle; on private land. The bylaw will not apply to unlicensed or visually offensive vehicles

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<sup>2</sup> These measurements are illustrative only; modify to meet local standards.

situated on public land (streets, roads, etc.). The reason(s) why a vehicle is being classified as a junked or derelict vehicle include:

- The vehicle described above is substantially rusted and is inoperable, located on private land within a residential part of the community; or
- The vehicle described above is partly dismantled (missing engine hood, wheels and front quarter panel on passenger side) and situated in the open on private land within a residential part of the community.

The order is sent to the owner / occupant of the land, who may or may not be the person who owns the vehicle, but is the person permitting the vehicle to be located in its current situation.

Remedial action will typically involve:

- Removal, demolition, or other type of disposal; or
- Action to make the vehicle legal, such as:
  - Affixing current license plates to the vehicle;
  - Undertaking necessary repairs; or
  - Concealing the vehicle (parking it in an enclosed structure or covering it with a tarpaulin) particularly in a situation where the vehicle is being restored.

Previous legislation specified advance notice to the owner / occupant (3 days in urban municipalities, 10 days in rural municipalities). A reasonable amount of time to comply with this order might be in the vicinity of 1 to 3 days after the deadline to appeal.

Draft resolutions and orders are contained in Appendix “B-5”.

## **Unspecified Nuisance**

Appendix “B-6” contains a sample form which may be used to address a nuisance not specifically noted above.

The Act also empowers the municipality to address activities which negatively impact the neighbourhood. The sample form will require modifications as follows:

- The remedial action may stipulate the discontinuation of the nuisance activity; and
- The consequences of non-compliance would not involve remedial action being taken by the municipality. More likely, the consequence would entail a prosecution for violation of the bylaw. The notice may serve as an official warning.

## ***The Appeal Hearing***

The person receiving the order has 15 days from the date of the order in which to appeal. The hearing should be conducted in a manner that is perceived by others as fair and objective. The notification to the person should provide clear direction regarding the appeal. During the hearing, the person in receipt of an order is given every opportunity to state his/her objection and convince the appeal body to change the order. The hearing should be conducted in the open. Procedural fairness should be evident to all concerned parties.

The appeal is to be heard either by council, or by a local appeal board. Section 365 of the Act authorizes a municipal council to establish a local appeal board to hear the appeal. If a local appeal board is established the council will need to determine the number of members and who will be eligible for appointment. For example, is the local appeal board to be comprised solely of ratepayers, or elected officials, or a combination of elected and non-elected individuals? Other logistics, like remuneration, quorum and the process to schedule a hearing, will also need to be addressed. In the event a local appeal board is not established or designated, appeals will be directed to and heard by the council of the municipality.

It may be advisable to notify the appeal board / council that a remedial notice has been issued, and the date by which an appeal is to be filed. To ensure the process continues forward without unnecessary delays, the Designated Officer may wish to schedule an appeal hearing to be held shortly after the period during which an appeal may be filed. It may be easier to cancel a meeting in the event no appeal is filed or where the situation is remedied rather than schedule a hearing in the event an appeal is filed shortly before the deadline.

## **Stay of Order**

Subsection 365(2) provides that an appeal does not operate as a stay of the order appealed from unless the board or council decides otherwise. A 'stay' is defined as the temporary suspension of a proceeding.

Pursuant to this section, filing an appeal does not temporarily postpone the action required by an order to remedy a contravention unless council or the appeal board says a suspension is warranted. Councils or boards should consider providing reasons if they choose to not provide additional time to complete the work following an appeal. This practice may deflect allegations of unreasonableness.

## **Results of Hearing**

A board or council may confirm, modify or repeal an order or substitute its own order. An order of this appeal may be further appealed to the courts on a question of law or jurisdiction within 30 days after the date of the decision.

## ***Service of Order***

Subsection 364(2) requires that the order be served on the person to whom the order is directed. Service of documents may be executed using any of the following methods:<sup>3</sup>

- Personal service
- Registered mail to the last known address of the person
  - A notice served by registered mail is deemed served on the fifth business day following the date of mailing unless the recipient can establish non-receipt of the notice through no fault of their own. “Business days” do not include weekends or statutory holidays.
- Hand delivery to the last known address of the person.
  - A notice served by hand delivery is deemed served on the day following the date of its delivery.
- Posting a copy of the notice on the relevant land, building, structure or vehicle.
  - A notice served by posting is deemed served on the day following the date of its posting.

If a notice cannot be served using any of the above methods, the notice may be served by publishing it in two issues of a newspaper. The last publication must appear at least three business days before taking any action with respect to the notice.

## ***Remedial Action by the Municipality***

A municipality may take whatever action is necessary to remedy a contravention **only if**:

- A written order has been given pursuant to section 364;
- The order contains the statement as required by clause 364(4)(d);
- The order has not been complied with within the required time; and
- The appeal period respecting the order has passed or if an appeal has been made and it allows the municipality to take action.

The municipality should assess local expectations regarding the process when a person fails to carry out the work specified within an Order to Remedy. The sample resolutions illustrated within the appendices contain the phrase “And that 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”.

- A municipality may expect that based on the above phrase, the administrator / clerk is authorized to proceed if the work remains undone.
- Other municipalities may expect the administrator / clerk to obtain further authorization from council or the committee prior to proceeding. Appendix “B-7” provides a sample resolution where this step is required.

Consistent, equitable administration of the nuisance abatement bylaw requires the municipality to clearly define its administrative process. Whatever process is developed, it is critical to note that with the exception of emergency situations, the municipality may

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<sup>3</sup> Section 390

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 being filed.

## **Adding Amounts to the Tax Roll**

The expenses and costs incurred by a municipality in performing this work are an amount owing to the municipality by the person who contravened the bylaw. As a first step, an invoice for these costs should be sent to the owner or occupant.

Section 369 authorizes a council to add any unpaid expenses and costs incurred by the municipality in remedying a contravention to be added to the tax roll. This action should be authorized by resolution of council.

A sample resolution is contained with Appendix “B-8”.

## **Civil Action**

The municipality may also collect any debt by civil action in a court of competent jurisdiction pursuant to section 368. This action should be authorized by resolution of council.

## ***Emergencies***

Patterned after the “Dangerous Buildings” provisions in previous legislation, section 367 empowers the municipality to take reasonable emergency action in response to a situation which poses an **imminent** danger to public safety. A synonym for an emergency is a crisis or an urgent situation. An emergency requires immediate action. Preparation is the key to managing any emergency.

Section 367 refers to emergencies which may or may not involve a bylaw contravention. For the purposes of this guide, an emergency refers only to contraventions of the municipality’s nuisance abatement guide. If the designated officer needs to ask the question as to whether a situation is or is not an emergency, there’s a distinct possibility the situation does not qualify. If in doubt, do not proceed under emergency authorities – allow time for the occupant or owner to deal with the situation or appeal the municipality’s determination.

A municipality is encouraged to establish who will initiate the action and the process to be followed in the event of an emergency. As time will be a factor in managing an emergency situation, it is very likely the administrative process may be distinctly unlike the process to be followed with respect to other nuisance situations. This administrative process will be contingent upon the amount of authority provided to the designated officer and the occupancy status of the property.

*The Municipalities Act* does not restrict the cause of the danger to buildings, and it expands the potential influence of the situation to include serious harm to other property. Examples of dangerous situations may include:

- The wall of the building is leaning outward and may fall on the sidewalk or street; or
- The tree has been severely damaged by age / wind / lightning and may fall on a building situated on an adjacent property.

### **Inspection (Emergencies)**

In view of the urgency to act quickly, legislation empowers the designated officer to take certain actions which supersede the rights of a property owner or occupant. These are:

- No requirement to make reasonable efforts to notify the owner or occupant of the property;
- Ability to enter certain property at other than reasonable hours; and
- Ability to carry out an inspection of the property and make copies of anything related to the inspection without the consent of the owner or occupant.

The power to enter property without consent of the owner or occupant does not extend to private dwellings. Entrance to a private dwelling requires either the consent of the owner or occupant, or a warrant issued either by a justice of the peace or the provincial court which authorizes the entry. The entry upon private property without the consent of the owner or occupant should occur only if the entry is absolutely required to assess the situation.

Upon close examination at a later date, situations which initially seemed to qualify as an emergency may appear significantly less threatening. Careful documentation of actions, and factors leading up to an action will be critical in the event that the municipality is compelled to defend a challenge by an aggrieved owner or occupant.

### **Order to Take Emergency Action**

In situations where the property is occupied, the municipality is encouraged to provide notice to the owner or occupant to undertake the work.

The responsibility for issuing an order to a person to remedy an emergency situation may fall solely on the designated officer. The emergency may simply not allow sufficient time to arrange a meeting of a council or a committee.

The Act provides authority to take action where there is imminent danger to public safety and the owner or occupant of a building is part of the “public”.

- Under previous legislation, specifically section 251.1 of *The Rural Municipality Act, 1989* and Section 125 of *The Urban Municipality Act, 1984* municipalities had the authority, upon recommendation of the Medical Health Officer, to declare buildings to be a danger to the health of its residents, and to subsequently order the completion of remedial repairs within 14 days.

In those cases where the “public” at risk is restricted to the owner(s) or occupant(s) of the building, the municipality is advised to assess the need to act. Are the proposed action(s) of the municipality in the public interest, or are they unnecessarily intruding on the rights of an individual to use the property / building in a lawful manner? Are there alternative options to deal with the situation? The municipality may wish to consult its solicitor in this situation. An emergency which affects members of the public other than the owner(s) or occupant(s) of the property presents less of a dilemma to the designated officer.

Appendix “B-9” contains a sample order that may be used by the designated officer to requiring a person to take action to remedy an emergency situation. The remedial action(s) ordered should be the minimum required to alleviate the hazardous condition. For example:

- Demolish the building; or
- Prune the tree to the extent that it no longer poses a hazard to the adjacent property

As this is an emergency situation, the remedial work needs to be undertaken within an extremely short timeline. The intent is to provide the owner / occupant an opportunity to do the work themselves. Where the owner or occupant refuses to comply with the order, the municipality will take steps to carry out the remedial measures.

In contrast to other orders in this guide, the opportunity to appeal the order likely will not occur until after the work is done either by the owner / occupant or by the municipality as a result of a failure to comply with the order. Legislation does not speak to an opportunity to appeal this decision. This appeal provides an opportunity to an aggrieved owner / occupant to discuss the situation with a municipality rather than immediately proceeding to a legal process. Previous legislation dealing with “Dangerous Buildings” provided this opportunity.

## **Emergency Action Taken**

Emergency action taken by a municipality will be irreversible, and may be subject to question at a later date regarding the need and the haste to supersede individual rights. In view of potential liability exposure, the council of a municipality may wish to retain authority to deal with emergency situations, and a sample resolution is provided in Appendix “B-10”. This arrangement, however, needs to be balanced against the speedier response expected from committee or delegated authority structures.

In the event that a nuisance situation becomes an emergency, a municipality may take whatever action is necessary to eliminate the emergency. The action involved should be the absolute minimum required to eliminate the danger to the public or to ensure no harm occurs to other property. The municipality may do the work with its own forces, or it may order others to carry out specified actions.

The order to other parties may be oral or written and may be issued to the person causing the emergency and/or to any other person. When an order is issued under this section, a person is required to comply with its contents – provide labour, services, equipment, materials, etc. Third parties (a person who did not cause the emergency situation) who are ordered to act are entitled to reasonable remuneration. The municipality may recover expenses and costs from the person who caused the emergency. The municipality may be called upon to justify its decision to exercise authority in this area. Careful documentation is highly recommended.

The expenses and costs of emergency action taken or authorized by the municipality to remedy the nuisance may be recovered from the property owner. The notice in Appendix “B-10” informs the owner that:

- The municipality declared the situation or condition on the property as an imminent danger;
- The reason(s) supporting the municipality’s position;
- The measures and actions taken or authorized by the municipality to remedy the situation;
- The municipality’s records confirm the person who is receiving the notice is the owner of the property;
- The municipality intends to recover the costs of the work and the extent of those costs; and
- The municipality is providing an opportunity to the owner to discuss its actions.

The form is sent to the property owner only. Presumably, the property was vacant in situations where the municipality does not attempt to order remedial action be taken by a person occupying the property, whether they are the owner or otherwise. If an order was issued to the occupant, and that person refused thus necessitating emergency action being taken by the municipality, the potential addition of costs to the property taxes involves the owner.

The notice does not specify the amount will be added to the property taxes enabling the municipality to use all available methods to collect this amount. The municipality may wish to enclose its invoice for the costs with the notice to reinforce that it is seeking recovery of costs from the owner. If the municipality does not intend to use any other method to enforce recovery of the costs and will take no other action than adding the amount to taxes if the invoice is not paid within a specific period of time, state that intention within the notice.

Legislation does not speak to an opportunity to appeal this decision. This appeal provides an opportunity to an aggrieved owner / occupant to discuss the situation with a municipality rather than immediately proceeding to a legal process. Previous legislation dealing with “Dangerous Buildings” provided this opportunity.

## ***Fines***

Where the municipality has included provision for prosecution of offences within the bylaw, the municipality may establish a procedural policy. For example:

- Council may consider a motion that the municipality will prosecute a person for contravening a portion of the bylaw;
- The administrator will issue a Voluntary Payment of Fine Notice to the person;
- If payment is made to the municipal office within the specified time frame, the municipality will not prosecute the person for the offence;
- If payment is not made to the municipal office within the specified time frame, the municipality will proceed with the prosecution. Therefore, it is imperative that the administrator obtain a commitment from council prior to proceeding with this action.

A sample resolution is provided within Appendix “B-11”.

The Notice of Violation is to be served on the person in a timely manner to ensure that he or she has sufficient time as provided within the bylaw to make the voluntary payment. If the Notice of Violation is served by registered mail, the deemed date of service is ten business days after the notice is mailed.<sup>4</sup> The municipality is encouraged to allow a reasonable period of time, following the deemed date of service, to enable the recipient to provide the voluntary payment.

In addition to serving notice by registered mail, a copy sent by regular mail may elevate the confidence level of the administrator / clerk to ensure the person is aware of his or her situation even where he or she declines to accept registered mail. This is not a statutory requirement; however extending the courtesy in some cases may establish a higher standard to be followed in all cases.

## ***Accountability***

The flexibility with which municipalities have been provided is balanced with both public and civil accountability. Municipalities are subject to federal and provincial laws, codes and charters. The municipality may be required from time to time to justify its process and/or actions. Careful consideration should be given during the initial stages of establishing the bylaw, administrative process and enforcement procedures.

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<sup>4</sup> Section 390

## **Sample Nuisance Abatement Bylaw**

The following section provides a sample nuisance abatement bylaw for consideration by council and municipal administration. In reviewing the sample bylaw, the municipality may accept or modify any suggested specifications (e.g., the height of vegetation noted in section 9, or the distances noted in section 16).

Municipalities may add other provisions, or it may delete or amend certain provisions contained within the sample bylaw. Caution is advised – no provision of the municipal bylaw should contravene *The Municipalities Act* or any other legislation.

The sample bylaw has been prepared by Advisory Services and Municipal Relations Branch, and not by legal experts. It is always good practice to obtain the advice of your solicitor in drafting bylaws.

BYLAW NO. \_\_\_\_\_

### ***Nuisance Abatement Bylaw***

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

**THE COUNCIL FOR THE \_\_\_\_\_ OF \_\_\_\_\_ 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 purposes of this Bylaw;
  - b) "building" means a building within the meaning of *The Municipalities Act*;
  - c) "Municipality" means the \_\_\_\_\_ of \_\_\_\_\_;
  - d) "Council" means the Council of the \_\_\_\_\_ of \_\_\_\_\_;
  - e) "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;
- f) “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:
- 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 excavations 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 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 section 8 of this bylaw, “overgrown” means in excess of 0.20 metres in height.
10. Section 8 of this bylaw 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 harbourage 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 / Clerk for the \_\_\_\_\_ of \_\_\_\_\_.
- 20. The Administrator / Clerk of \_\_\_\_\_ is hereby authorized to further delegate the administration and enforcement of this Bylaw to \_\_\_\_\_.

**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 a person who is assisting a Designated Officer.

**Order to Remedy Contraventions**

- 24. 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.
- 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 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 Expenses 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 other 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 [insert amount in words and figures] to be paid to the Municipality within [insert amount of time provided to the person] days.
34. Where the Municipality receives voluntary payment of the amount prescribed under section 33 within 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 to section 24 of this bylaw.
36. Every person who contravenes any provision of section 32 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.

### **Repeal of Former Bylaws**

37. Bylaw # \_\_\_\_\_ (Short Title of Bylaw); and all amendments thereto are hereby repealed.

**Coming Into Force**

38. This bylaw shall come into force on the day of its final passing.

|        |  |                       |
|--------|--|-----------------------|
|        |  |                       |
|        |  | Mayor / Reeve         |
| {Seal} |  |                       |
|        |  |                       |
|        |  | Administrator / Clerk |

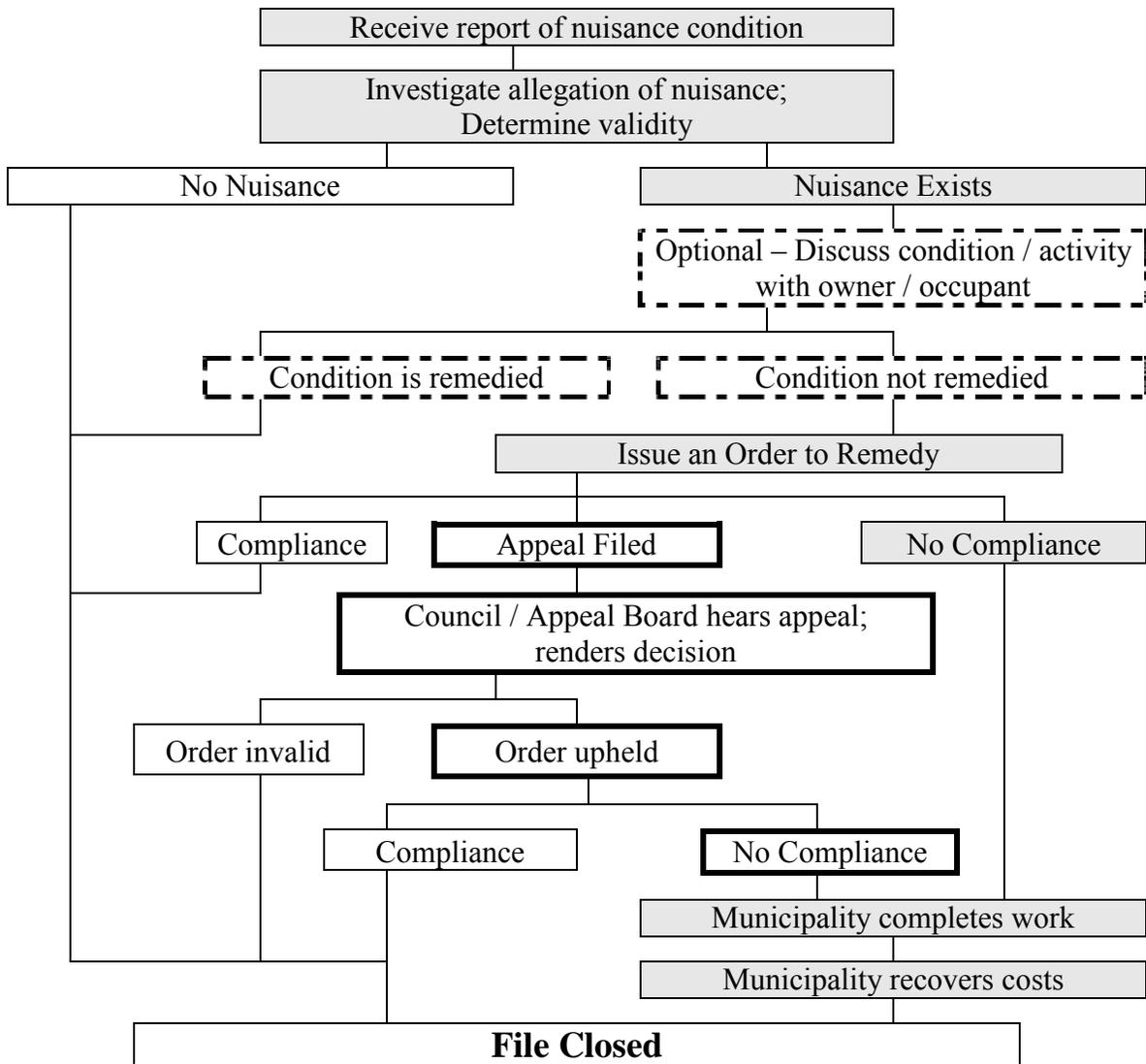
Clauses 8(1)(b) & 8(1)(d) *The Municipalities Act*

Read a third time and adopted  
this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Administrator / Clerk

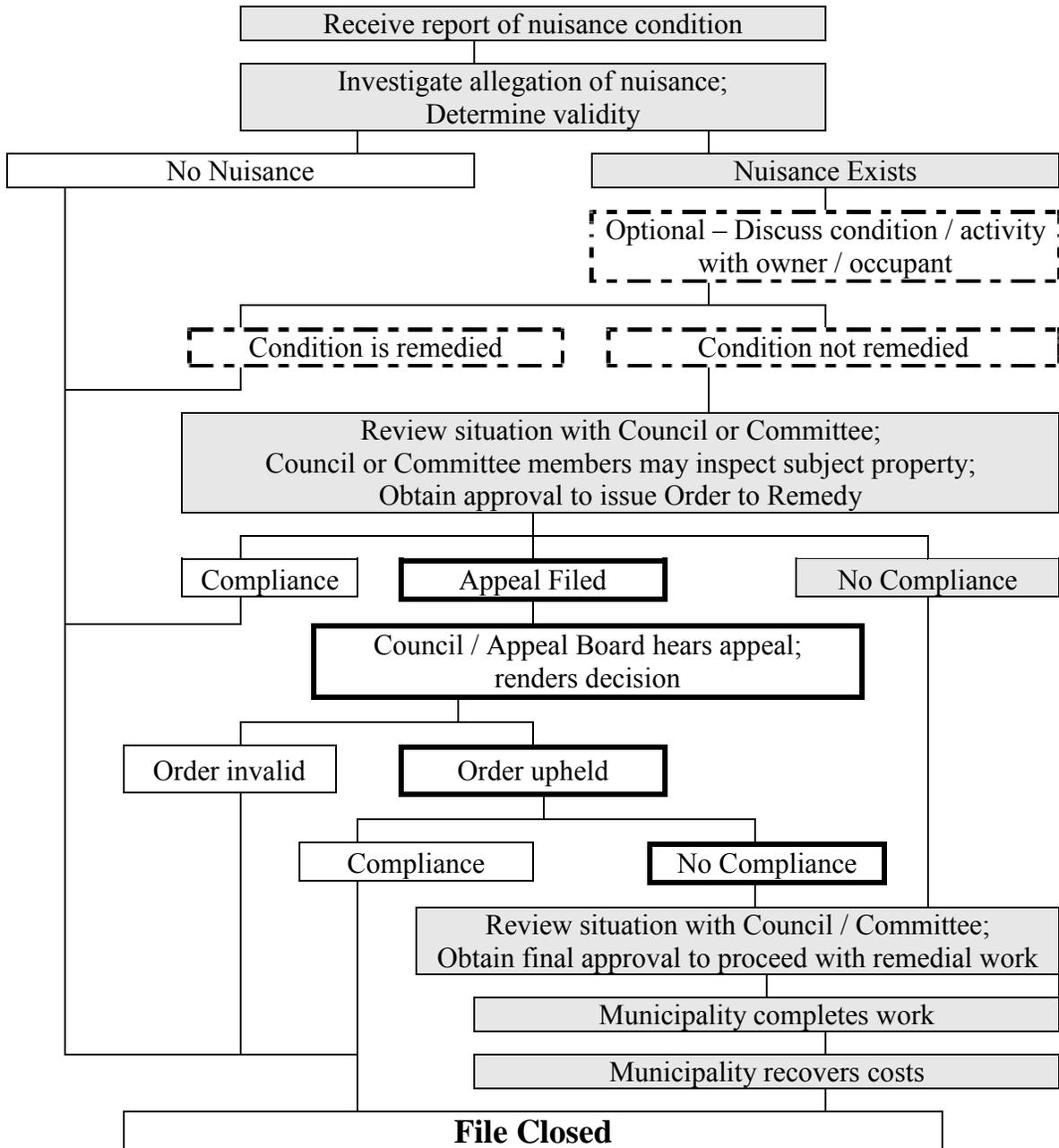
## Appendix “A” – Administrative Process

### *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.

## Council or Committee Input



As a reminder, the requirement to secure council or committee approval prior to issuing an Order to Remedy or prior to proceeding to completing remedial work is a decision that is made by the municipality in the process of defining the administrative procedure to enforce its Nuisance Abatement Bylaw.

Council or committee involvement may be desirable to share responsibility for critical decisions; however the process may require additional time to arrange suitable meeting times.

The above flowcharts are suggested processes which may or may not suit local needs.

## **Appendix “B” – Sample Resolutions & Forms**

### ***Resolutions***

Depending upon the administrative process implemented by the municipality, the Designated Officer may require specific authorization from a committee or from council to issue the order. As noted earlier, sole responsibility for determining nuisances and initiating enforcement action may not be desirable in small environments. Involving a number of individuals at this stage may avoid allegations of bias toward the Designated Officer.

The sample resolutions appearing within this section are those which may be considered by the committee or council. For the purposes of these illustrations, the term “Committee” will be used and should be interchanged with the term “Council” in those instances where council retains this authority to itself.

Appeal rights are not addressed in the following resolutions; a person’s right to appeal an order to remedy a contravention is protected by statute. When determining the deadline by which a person must comply with an order to remedy, the committee shall take into consideration that the person has a period of 15 days during which the order may be appealed. Where an order has been appealed, the municipality may not proceed with carrying out the specified work until the appeal has been heard and decided by council or by the local appeal board.

### ***Forms***

The sample bylaw does not reference specific forms for notice of violation, order to remedy a nuisance or request voluntary payment from a person to avoid prosecution for an offence. The Act provides municipalities with autonomy to design their own forms, provided they contain specific information referred to within the legislation. This section contains a number of sample forms for review and modification to meet local standards prior to authorization for use in your municipality.

Forms may be referenced and appended to bylaws; however any changes to the forms subsequently require an amendment to the bylaw. Alternatively, the municipality may choose to retain the generic wording provided in the sample bylaw. Council should approve the forms by resolution; in this manner, subsequent amendments to administrative forms are accommodated more easily.

If desired, the bylaw may empower the Designated Officer to implement minor modifications that do not affect the substance of the form. Failure to include that authorization may jeopardize an enforcement action if alterations are made.

## **Sample Resolutions and Forms**

### **B-1 Appointing a Designated Officer**

That the Designated Officer to whom responsibility is assigned to administer and enforce the Nuisance Abatement Bylaw for the [Municipality Name] for the [specific period of time] shall be [the person's name or position with the municipality].

### **B-2 Building / Structural Nuisance**

That the Committee hereby declares the [building / fence / other type of structure] 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 # \_\_\_\_, the Nuisance Abatement Bylaw, for the following reason(s):

- [the same reasons that will be stated within the order];

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

- [the same actions as will be specified in the order];
- said work to be completed on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ;

And that 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 the costs.

#### **SAMPLE ORDER**

[Municipal Letterhead / Information]

#### **Order to Remedy**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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**RE:** [Legal address of property / Civic 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 [Municipality Name] (the Municipality) on [date] ;

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:

- [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 is 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 [state name and address] 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 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

### **B-3 Untidy / Unsightly Premises**

That the Committee hereby declares the [land / building(s)] 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 # \_\_\_\_, the Nuisance Abatement Bylaw, for the following reason(s):

- [the same reasons that will be stated within the order];

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

- [the same actions as will be specified in the order];
- said work to be completed on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ;

And that 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 the costs.

#### **SAMPLE ORDER**

[Municipal Letterhead / Information]

#### **Order to Remedy**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RE: [Legal address of property / Civic 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 [Municipality Name] (the Municipality) on [date] ;

THAT as a result of the above inspection, the land 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 by:

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

The remedial action noted above is 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 [state name and address] 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 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

## B-4 Excavation Nuisance

That the Committee hereby declares the [basement / excavation / ditch / watercourse / pond / surface water / swimming pool / other structure] 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 # \_\_\_\_, the Nuisance Abatement Bylaw, for the following reason(s):

- [the same reasons that will be stated within the order];

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

- [the same actions as will be specified in the order];
- said work to be completed on or before the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ;

And that 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 the costs.

### SAMPLE ORDER

[Municipal Letterhead / Information]

#### Order to Remedy

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RE: [Legal address of property / Civic 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 [Municipality Name] (the Municipality) on [date] ;

THAT as a result of the above inspection, the land 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 by:

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

The remedial action noted above is 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 [state name and address] 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 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

## **B-5 Derelict / Junked Vehicle Nuisance**

That the Committee hereby declares the [vehicle / trailer] described as follows:

- [describe the vehicle or trailer in the same manner as in the order] 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 # \_\_\_\_, the Nuisance Abatement Bylaw, for the following reason(s):

- [the same reasons that will be stated within the order];

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

- [the same actions as will be specified in the order];
- said remedial action(s) to be undertaken on or before the \_\_\_ day of \_\_\_\_, 20\_\_ ;

And that if the remedial action(s) noted above is/are not undertaken by the date noted above, the municipality is authorized to take whatever steps are necessary to undertake the remedial action(s) and recover the costs.

### **SAMPLE ORDER**

*[Municipal Letterhead / Information]*

#### **Order to Remedy**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**RE:** [Legal address of property / Civic 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 [Municipality Name] (the Municipality) on [date] ;

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

- [describe the vehicle or trailer – make, model, colour, serial number if obtained] is hereby declared a nuisance because:
- [state SPECIFIC reason(s) why the vehicle / trailer 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 by:

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

The remedial action noted above is 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 [state name and address] 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 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

## B-6 Unspecified Nuisance

### SAMPLE ORDER

*[Municipal Letterhead / Information]*

### Order to Remedy

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

RE: **[Legal address of property / Civic 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 **[Municipality Name]** (the Municipality) on **[date]** ;

THAT as a result of the above inspection, the land 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 by:

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

The remedial action noted above is 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 **[state name and address]** 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 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

**B-7 Remedial Action by the Municipality**

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 or 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 being filed.

**B-8 Recovering Costs**

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”.

## B-9 Order to Take Emergency Action

### SAMPLE ORDER

[Municipal Letterhead / Information]

### 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 [Municipality Name] (the Municipality) 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 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 the Council of the [Municipality Name] 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

## B-10 Emergency Action Taken

That the Committee hereby declares the [building / other structure] located on [legal 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 actions 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 eliminating the danger on the said property; and

That the owner be invited to appear before 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.

### SAMPLE ORDER

[Municipal Letterhead / Information]

#### 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 [Municipality Name] (the Municipality) 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]

**ACTION TAKEN**

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 cost 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 [Municipality Name] 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

## **B-11 Notice of Violation**

That the Municipality has reason to believe that [name of owner or occupant] has violated Section \_\_\_ of Bylaw # \_\_\_\_; and

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

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

### **SAMPLE NOTICE OF VIOLATION**

**[Municipal Letterhead / Information]**

#### **Notice of Violation**

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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

#### **NOTICE OF VIOLATION**

TAKE NOTICE THAT the records of the [Municipality Name] (the Municipality) 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 you did allow the following [choose appropriate word – action / condition / etc]:

- [describe the offence]

in contravention of Section \_\_\_ of Bylaw No. \_\_\_\_\_ (the Nuisance Abatement Bylaw) to occur on the above described property.

#### **PENALTY**

TAKE NOTICE THAT Section \_\_\_ of Bylaw No. \_\_\_\_\_ 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:

- [Section 36 of Sample Bylaw]

#### **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 [Municipality Name] within [number] days will result in the issuance of a Summons.

Dated at \_\_\_\_\_,  
in the Province of Saskatchewan,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Designated Officer