## HYDROCARBON IMPACTED SITE RESTORATION

**Disclaimer:**

***This draft bylaw has been prepared by staff in the Advisory Services and Municipal Relations Branch of the Ministry of Government Relations, not legal experts. It is intended for guidance/illustrative purposes only and may be reworded to suit local conditions and requirements. It is always advisable to obtain the advice of a solicitor in drafting bylaws.***

**(MUNICIPALITY STATUS) OF (NAME / #)**

**BYLAW NO \_\_\_\_\_\_**

**A BYLAW TO REGULATE THE DISMANTLING AND RECLAMATION OF HYDROCARBON IMPACTED SITES**

The Council of the \_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_ in the Province of Saskatchewan enacts as follows:

1. This bylaw shall be referred to as the “Site Restoration Bylaw”.[[1]](#footnote-1)
2. In this bylaw:
   1. “Administrator” means the administrator of the municipality;
   2. “Council” means the council of the municipality;
   3. “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 or, in the absence of a designation by Council, the Administrator;
   4. “Municipality” means the \_\_\_\_\_[[2]](#footnote-2);
   5. “Hydrocarbon impacted site” means land used as a petroleum storage site, a service station, gas bars and other similar uses;
   6. “Owner” with respect to land, means:
      1. the registered owner of the land as defined in *The Land Titles Act, 2000*; or
      2. a purchaser of the land pursuant to an agreement for sale who has registered an interest based on the agreement for sale against the title to that land pursuant to *The Land Titles Act, 2000*;
   7. “Out of service” means the storage tanks are no longer being used for their intended purpose for a period of not less than 90 days,[[3]](#footnote-3) but shall not include:
      1. being out of service for repair or modification of the storage tank where the storage tank is back in service within 90 days or such greater time as the municipality determines; or
      2. continuing in use for a specific purpose or required to meet third party obligations and/or agreements;
   8. “Storage tank” means a tank used to store hydrocarbons, either above or below the ground, including connected piping or dispensing equipment.
3. When hydrocarbon storage tanks on a property within the municipality become out of service, the owner of the property upon which the tanks are located shall:
   1. provide written notice to the municipality; and
   2. apply for a permit to remove the storage tanks from the property. [[4]](#footnote-4)
4. Notwithstanding Section 3 of this bylaw, upon application by the owner of a property containing out of service storage tanks, the municipality may extend the time for an owner to comply with this bylaw.
5. Every application for a permit to remove a storage tank shall be in Form A, appended hereto and forming a part of this bylaw, and shall be accompanied by a fee in the amount of \_\_\_\_[[5]](#footnote-5) payable to the municipality
6. Subsequent to issuance of the permit by the municipality,[[6]](#footnote-6) the owner of the property upon which the storage tank is located shall:
   1. remove all flammable liquids and combustible liquids from the storage tank;
   2. purge the storage tank of all vapours;
   3. give notice to the municipality of the proposed date and time for the removal of the storage tank;
   4. remove the storage tank from the site or from the ground;
   5. submit a corrective action plan and/or risk management plan to the Ministry of Environment for review and approval;
   6. submit copies of any reports submitted to the Ministry of Environment pertaining to e); and
   7. comply with all federal and provincial legislation and regulations, including the National Fire Code, respecting the restoration of the site.
7. Notwithstanding section 6 of this bylaw, an owner or lessee shall not remove a storage tank from the site or from the ground unless the municipal fire department [[7]](#footnote-7) is present.
8. An owner shall not be required to undertake any of the work described above if it would be contrary to any valid federal or provincial laws.
9. The administration and enforcement of this bylaw is hereby delegated to the Designated Officer for the municipality.
10. The inspection of property by the municipality to determine if this bylaw is being complied with is hereby authorized.
11. 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.
12. If a Designated Officer finds that an owner 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.
13. Orders given under bylaw shall be served in accordance with Section 390(1)(a), (b) or (c) of *The Municipalities Act*.
14. No person shall:
    1. fail to comply with an order made pursuant to this bylaw;
    2. obstruct or interfere with any Designated Officer or any other person acting under the authority of this bylaw; or
    3. fail to comply with any other provision of this bylaw.
15. Every person who contravenes or fails to comply with any provision of this bylaw is guilty of an offence liable on summary conviction to the penalties prescribed in *The General Penalty Bylaw [[8]](#footnote-8)* of this municipality. *If the Municipality wishes to offer the option of voluntary payments, please refer to “Voluntary Payment Option” (on sample bylaw page) for suggested terminology to be included within the bylaw*

|  |  |
| --- | --- |
|  |  |
|  | Mayor / Reeve |
| [SEAL] |  |
|  |  |
|  | Administrator |

Read a third time and adopted

this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Administrator

1. Municipalities may prefer or develop an alternate short name. [↑](#footnote-ref-1)
2. Insert full name of municipality. [↑](#footnote-ref-2)
3. Municipality may establish different period of time to classify tank as being out of service. [↑](#footnote-ref-3)
4. Municipalities should determine if they want to review / issue permits for this activity as this may delay site restoration. As an alternative, the municipality may require the owner of the property to provide a copy of its application to the Ministry of Environment. If so:

   Alter the terminology of this section;

   Delete section 4

   Renumber subsequent clauses

   Alter the terminology of Section 5 – for example, delete “by the municipality” and substitute therefore “by the Ministry of Environment”. [↑](#footnote-ref-4)
5. Municipality may specify the amount of the fee here; as a consequence, amending the bylaw is required when the fee is to be changed. If the municipality has incorporated a Rates and Fees Bylaw, the fee could be specified in that bylaw, the language of this section would be altered to reference that bylaw. [↑](#footnote-ref-5)
6. The municipality should develop a companion policy to this bylaw. What is the process for the permit to be issued? Does it need to be approved by Council? Does the Administrator or a designated official have authority to grant the permit? If a municipality chose to do so, this procedure could be described within this bylaw. [↑](#footnote-ref-6)
7. Insert appropriate name of fire department which will be attending this event. If the municipality is prepared to allow removal of the tank without the fire department being present, remove the clause or include a provision which will provide council with discretionary authority in this area. Municipalities are encouraged to consult with the Fire Chief regarding their expected responsibilities regarding this bylaw. [↑](#footnote-ref-7)
8. If the municipality does not have a General Penalty Bylaw, the maximum fines would be specified. If the municipality has a General Penalty Bylaw, ensure there is a clause within it referencing “The General Penalty Bylaw” as the short name for that bylaw. [↑](#footnote-ref-8)