

## **BYLAW NO. 20-941**

**A BYLAW OF THE MUNICIPAL DISTRICT OF SMOKY RIVER NO. 130, IN THE PROVINCE OF ALBERTA FOR RESTRICTING THE SPREAD OF FUSARIUM GRAMINEARUM WITHIN THE MUNICIPAL DISTRICT OF SMOKY RIVER NO. 130 HERINAFTER CALLED THE M.D.**

**WHEREAS**, the Municipal Government Act, RSA 2000, M-26, as stated, in Part 2, Section 7 states that the Council of a municipality may make bylaws for the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS**, the presence of Fusarium graminearum in the M.D. threatens the economic well-being and viability of the agricultural producers in the M.D.;

**AND WHEREAS**, the M.D. has deemed it expedient and in the public interest to restrict the spread of Fusarium graminearum within the municipality;

**NOW THEREFORE**, the Council of the Municipal District of Smoky River No. 130, in the Province of Alberta, duly assembled, enacts as follows:

### **1.0 DEFINITIONS**

- a) "Fusarium graminearum" means the agricultural pest infecting grains, leading to the creation of Deoxynivalenol (DON) mycotoxin, a vomitoxin that adversely impacts the quality and marketability of grains;
- b) "Inspector" means the Agricultural Fieldman appointed by the M.D. or such other person(s) designated by the M.D. of Smoky River No. 130 to administer and enforce this Bylaw;
- c) "Municipality or M.D." means the M.D. of Smoky River No. 130 or the area contained within the boundary thereof as the context requires;
- d) "Council" means the council presiding for the M.D. of Smoky River No. 130;
- e) "Municipal Government Act or MGA" means the Municipal Government Act of Alberta, Revised Statutes of Alberta Chapter M-26, the most current edition.
- f) "Owner" means a Person who controls the property under consideration, holds themselves out as the person having the powers and authority of ownership or who at the relevant time exercises the powers and authority of ownership, and includes:
  - (i) The Person registered on title at the Land Titles Office;
  - (ii) A Person who is recorded as the owner of the property on the assessment roll of the M.D. of Smoky River No. 130;
  - (iii) A Person who has purchased or otherwise acquired the property and has not become the registered owner thereof; and
  - (iv) A Person who is the occupant of the property under a lease, license, permit or other agreement;
- g) "Property" includes any lands, buildings or structures, whether or not affixed to land;
- h) "Person" includes an individual, a firm, partnership, joint venture, proprietorship, corporation, association, society or any other legal entity;
- i) "Retailer" means any person or company who promotes, cleans or offers for sale or any service related to seed, plants or plant parts, livestock, soil or soil amendments or

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any other organism to an Owner in M.D. of Smoky River No. 130.

### **2.0 AUTHORITY OF INSPECTORS**

2.1 Within the boundaries of the M.D., the Inspector's powers will include:

- a) The right to enter onto any Property at any reasonable time to inspect and seek to identify the presence of *Fusarium graminearum*;
  - i. The inspector shall not enter a private dwelling for inspection unless consent is granted by the Owner or a warrant allowing entry issued by a judge of the provincial court is obtained;
  - ii. The inspector may be accompanied by a Peace Officer;
- b) To survey for or collect samples of seeds, plants or other substances or items from any Property and test or send such samples for testing to verify or determine the presence of *Fusarium graminearum*;
- c) Being a designated officer for the purpose of issuing an order to remedy contraventions pursuant to section 545 of the Municipal Government Act, for the purpose of remedying any breach of this Bylaw and eliminating the presence of *Fusarium graminearum*; if so directed by Municipal Policy or Council and;
- d) To take such other reasonable steps as may be required to uncover and identify the presence of and to prevent the sale or importation of any *Fusarium graminearum* at any Retailer within the M.D.

### **3.0 OBSTRUCTION**

3.1 No Person, whether or not he is the Owner or Retailer which is the subject of any inspection or action under this Bylaw, shall interfere with or attempt to obstruct an Inspector who is attempting to inspect, identify, destroy or take possession of product thought to be infected by *Fusarium graminearum* or otherwise carrying out any duty under this Bylaw.

### **4.0 OFFENCES AND PENALTIES**

- 4.1 An Inspector who discovers *Fusarium graminearum* within the M.D. may require that steps be taken as outlined in the M.D.'s *Fusarium graminearum* Policy, or as directed by Council. Such steps to be taken will be directed in an "Order to remedy contraventions" per Section 545 of the MGA.
- 4.2 Any Person or Owner who contravenes any provision of this Bylaw or the applicable Policies is also guilty of an offence and may be liable to a specified penalty in the form of a Violation Ticket in the amounts stated in the M.D.'s Rates and Fees Bylaw.
- 4.3 Where an Inspector reasonably believes that a Person has contravened any provision of this Bylaw, he may serve a Violation Tag as provided by this Section, or if the delivery of the directions of Council to a Person is required. Delivery shall be deemed effected if:
  - a) Delivery is made personally on the Person or by leaving it for the Person at his/her residence with a person on the premises who appears to be at least eighteen year of age, or

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- b) Delivered in a manner by which the Person must affix his signature accepting delivery of the item
- c) Posted on the land and sent by regular mail, email or fax, such delivery shall be deemed completed after 7 days, or
- d) Delivery of documents may also be considered effected if done in accordance with Section 608 of the MGA "Sending documents".

4.4 A Violation Tag shall be in such form as determined by the M.D. and shall state the section of the Bylaw which was contravened.

4.5 If the actions specified on a Violation Tag is not taken within the prescribed time period then an Inspector or Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the Provincial Offences Procedure Act, RSA 2000, c. P-34, as amended;

4.6 A Person who has been issued a Violation Tag in respect of a contravention of a provision of this Bylaw, and has carried out the actions as indicated by the M.D. within the time allowed, shall not be liable to prosecution for the subject contravention. Any actions directed by Council must be complied with whether a Violation Ticket penalty is paid or not.

4.7 The levying and payment of any fine or the imprisonment for any period provided in this Bylaw shall not relieve a person from the necessity of payment of any fees, charges or costs for which he is liable under the provisions of this Bylaw or the Municipal Government Act, R.S.A 2000, M-26.

4.8 A Person who feels aggrieved by this Bylaw or actions taken by an Inspector under this Bylaw may request a review by Council per Section 547 of the MGA.

**5.0 SEVERABILITY**

5.1 Should any section or part of this Bylaw be found to have been improperly enacted, for any reason, then such section or part shall be regarded as being severable from the rest of the Bylaw and the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.

**6.0 EFFECTIVE DATE**

6.1 This Bylaw shall have force and take effect upon third and final reading.

Received **FIRST** reading this 10 day of February, 2021.

Received **SECOND** reading this 10 day of February, 2021.

Received **THIRD** reading and **FINALLY PASSED** this 10 day of March, 2021.

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Reeve

~Seal~

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Lita M...  
Chief Administrative Officer

# FUSARIUM GRAMINEARUM BYLAW VIOLATION TICKET

# \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_ A.M P.M.

Location: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Cultivation, Transportation or Storage of Fusarium graminearum infected seed	\$ 10,000
Marketing/Advertising of seed known to be infected with Fusarium graminearum	\$ 10,000
Sale of seed known to be infected with Fusarium graminearum	\$ 10,000
Sowing of seed known to be infested with Fusarium graminearum	\$ 10,000
Obstructing an Inspector	\$ 10,000

## Additional Information:

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Issued by \_\_\_\_\_

Voluntary payment option: You may avoid prosecution for this offence by forwarding payment within 30 days:

1. Pay directly at Municipal District of Smoky River No. 130 office at 701 Main Street Falher, or
2. Pay by mail to Municipal District of Smoky River No. 130, Box 210 Falher AB T0H 1M0

WHITE – Owner/retailer      CANARY - Municipality