



THE RURAL MUNICIPALITY OF DAUPHIN



BY-LAW NO. 2991

**BEING A BY-LAW OF THE RURAL MUNICIPALITY OF DAUPHIN TO ESTABLISH STANDARDS OF MAINTAINING PROPERTY, REGULATING NUISANCES, ABANDONED AND UNSIGHTLY/UNSAFE PROPERTY, AND DERELICT VEHICLES.**

WHEREAS The Municipal Act reads in part as follows:

- 232(1) A council may pass by-laws for municipal purposes respecting the following matters;
- (a) the safety, health, protection and well-being of people, and the safety and protection of property; ...
  - (c) subject to section 233, activities or things in or on private property; ...
  - (o) the enforcement of by-laws
- 232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division...
- (d) establish fees or other charges for services, activities or things provided or done by the municipality or for the use of property under the ownership, direction, management or control of the municipality ...
- 233 A by-law under clause 231(1)(c) (activities or things in or on private property) may contain provisions only in respect of
- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;
  - (b) the parking and storing of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing;
  - (c) the removal of top soil; and
  - (d) activities or things that in the opinion of council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations.
- 236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions
- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
  - (b) remedying contraventions of by-laws, including
    - (i) creating offences,
    - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge, or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
    - (iii) providing that an amount owing under sub clause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
    - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
    - (v) charging and collecting costs incurred in respect of acting under sub clause (iv),

- (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.

- 242(1) If a designated officer finds that a person is contravening a by-law or this or any other Act that the municipality is authorized to enforce, the designated officer may by written order require the person responsible for the contravention to remedy it if, in the opinion of the officer, the circumstances so require.
- 242(2) The order may
- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
  - (b) direct a person to take any action or measure necessary to remedy the contravention of the Act or by-law, including the removal or demolition of a structure that has been erected or placed in contravention of a by-law and, if necessary, to prevent a reoccurrence of the contravention;
  - (c) state a time within which the person must comply with the directions; and
  - (d) state that if the person does not comply with the directions within a specified time, the municipality will take the action or measure at the expense of the person.
- 243(1) If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, or because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order
- (a) in the case of a structure, require the owner
    - (i) to eliminate the danger to public safety in the manner specified, or
    - (ii) remove or demolish the structure and level the site;
  - (b) in the case of land that contains the excavation or hole, require the owner
    - (i) to eliminate the danger to public safety in the manner specified, or
    - (ii) fill in the excavation or hole and level the site;
  - (c) in the case of property that is in an unsightly condition, require the owner
    - (i) to improve the appearance of the property in the manner specified, or
    - (ii) if the property is a building or other structure, remove or demolish the structure and level the site.
- 243(2) The order may
- a) state a time within which the person must comply with the order; and
  - b) state that if the person does not comply with the order within the specified time, the municipality will take the action or measure at the expense of the person".

AND WHEREAS it is deemed expedient to pass a By-law for the purpose of maintaining property and regulating and abating nuisances and derelict, abandoned and unsightly property that are detrimental to the health, safety and comfort of the residents of the Municipality of Dauphin;

**NOW THEREFORE THE COUNCIL OF THE RURAL MUNICIPALITY OF DAUPHIN, IN COUNCIL ASSEMBLED, ENACT THE FOLLOWING POLICIES AND PROCEDURES WHICH SHALL GOVERN THE INSPECTION, REMEDY ENFORCEMENT OR ACTION RESPECTING UNSIGHTLY AND/OR UNSAFE PROPERTY AND/OR STRUCTURES OR THOSE WHICH MAY CAUSE A NUISANCE IN THE RURAL MUNICIPALITY OF DAUPHIN:**

**PART ONE**  
**DEFINITIONS AND APPLICATION**

**DEFINITIONS:**

1. In this By-Law:
  - a) **“Appeal Committee”** means a committee comprised of all members of Council, excluding any members duly appointed as Designated Officers as recognized in 1(e).
  - b) **“Building”** means any structure used or intended for supporting or sheltering any use or occupancy.
  - c) **“Council”** means the council duly elected in the Municipality.
  - d) **“Derelict Vehicle”** means any vehicle that is not in operating condition, or cannot meet safety standards as Legislated by the Province of Manitoba from time to time and does not have attached thereto, and exposed thereon, one or more licence plates for the current registration year and is kept in the open.
  - e) **“Designated Officer”** means the by-law enforcement officer, building inspector, fire chief, or any other person appointed by council and for the purposes of this by-law and wherever stated herein a committee of council duly appointed by the council of the whole.
  - f) **“Interested Person”** means the owner, occupier or mortgagee of property which is the subject of an order made under the authority of this by-law.
  - g) **“Mortgagee”** in the case of any property means any person holding a registered real property mortgage against the property according to the records of the land titles office for the area within which the property is situated.
  - h) **“Mechanical Refuse”** means parts from or unusable, discarded or abandoned machinery, equipment or vehicles.
  - i) **“Municipality”** means the Rural Municipality of Dauphin.
  - j) **“Nuisance”** means any condition, which is or may become injurious or prejudicial to health or hinder the suppression of disease, or which is offensive.
  - k) **“Occupier”** in the case of any property means any person in actual or constructive possession of the property pursuant to a lease, tenancy license or other right to occupy.
  - l) **“Owner”** in the case of any property means the registered owner of the property according to the current assessment records of the Municipality.
  - m) **“Person”** means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular.
  - n) **“Property”** means any land as defined in *The Municipal Assessment Act* within the Municipality whether or not there is situated thereon a dwelling house or any other building.
  - o) **“Rubbish”** means any garbage, trash, or miscellaneous items, including, but not limited to unwanted or discarded household items, waste from building construction, remodelling and repair; tree branches, grass and shrub clippings, leaves or other general yard and garden waste; motor vehicle parts or tires; newspapers, magazines, packaging materials, waste paper or cardboard, dead animal carcasses, and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighbourhood aesthetics.

- p) **“Standards”** means the minimum expected maintenance and improvement of the physical condition and of any building or other structure or properties, or parts thereof, together with the surrounding lands.
- q) **“Unsafe structure”** means any structure, whether a building, fence, excavation or hole, which in the opinion of the designated officer is at risk of collapse or otherwise dangerous to public safety or property.
- r) **“Unsanitary Condition”** means a condition or circumstance that:
  - I) is offensive; or
  - II) is, or may be, or might become injurious to health; or
  - III) prevents or hinders the suppression of disease; or
  - IV) contaminates or pollutes, or may contaminate or pollute food, air or water; or
  - V) might render food, air or water injurious to the health of any Person, and includes nuisance and any circumstance or condition declared to be an unsanitary condition under this by-law.
- s) **“Unightly”** means a property, building, or any other structure which in the opinion of the designated officer is detrimental to the surrounding area, unacceptably offensive in light of the community standards of cleanliness or generally accepted neighbourhood aesthetics, that have become a nuisance to adjoining properties, and that in the opinion of the designated officer shall be improved to the standards of this by-law.

**APPLICATION:**

- 2. This by-law applies to all property and all owners and occupiers of property within the Municipality with particular consideration for those properties within the areas of the municipality in or near more densely populated areas of the municipality.

**PART TWO**  
**STANDARDS**

**PROPERTY STANDARDS:**

- 3. No owner or occupier of property shall permit on such property, and each owner and occupier of property shall keep such property free and clear of:
  - (a) rubbish;
  - (b) unsafe structure(s);
  - (c) unsightly property;
  - (d) mechanical refuse;
  - (e) the storage of household appliances, whether or not the same are capable of operation;
  - (f) the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a nuisance to adjoining properties;
  - (g) the growth of grass to a length which in the opinion of the designated officer is unsightly, or provides harbourage to rodents, insects, or vermin.
  - (h) regular outdoor burning, the smoke of which causes a nuisance to adjoining properties.
  - (i) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof.

#### **DERELICT VEHICLES:**

4. Each property shall be kept free and clear of the unsightly storage of unwarranted derelict vehicles and/or motor vehicles capable of registration under the Highway Traffic Act or the Off-Road Vehicles Act, which are not registered under either of those statutes, which become a nuisance to adjoining properties or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics. Provisions will be made for properties and/or structures lawfully used and licensed as commercial automobile dealerships or approved by Council.
  - (a) In no event shall the number of derelict vehicles per individual property exceed three (3).
  - (b) The derelict vehicle(s) shall be parked in an unobtrusive place in the back yard of the property and the vegetation around the vehicle shall be cut to ensure as much as possible the amenity of the neighbourhood.

#### **BUILDING STANDARDS:**

5. The following standards shall apply to all buildings and/or structures:
  - (a) **Building and Occupancy Standards**  
Shall be in accordance with the Municipality's current Building By-Law.
  - (b) **Pest Prevention**  
Every building shall be maintained free of rodents, vermin and insects at all times and methods used for exterminating rodents, vermin or insects shall conform with generally accepted practice.
  - (c) **Unsanitary and Hazardous Conditions**  
No person shall commit any nuisance, nor permit or maintain any unsanitary condition in any premises within his control or management, nor shall he permit the existence of any condition, matter or thing which, in the opinion of the Designated Officer is apparent unhealthy or in an unsafe condition.

### **PART THREE** **INVESTIGATIONS AND ADMINISTRATION**

#### **COMPLAINT:**

6. Any person may allege a violation of this by-law by filing a written complaint with the designated officer in such form and with such particulars as the designated officer may from time to time require, and/or the Designated Officer may investigate based on his/her regular patrol of the Municipality.

#### **INSPECTIONS:**

7. Upon receipt of a complaint, or during regular patrol, as aforesaid, the designated officer shall inspect all property alleged to be in violation of this by-law, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this by-law.

#### **NOTICE OF VIOLATIONS / ORDER TO COMPLY**

8. Where inspections reveal a violation of any provision of this by-law, the designated officer:
  - (a) may in his or her discretion issue a "**NOTICE OF VIOLATION**" regarding the contravention to the owner and occupier of the property by regular mail substantially in the form attached as Schedule A.
  - (b) if the contravention continues following the date specified to remedy the contravention described in the "Notice of Violation", if any, provided under subsection 7(a) above, or if in the Designated Officers discretion, no such "Notice of Violation" is provided, the designated officer shall issue an "**ORDER TO COMPLY**" substantially in the form attached as Schedule B, which shall contain:

- (i) action required to be taken in order to remedy the contravention, including, if applicable, the removal or demolition of a structure.
- (ii) specify the time within which compliance shall be required, being a minimum of fourteen (14) days;
- (iii) advise that should compliance not be remedied within the specified time, the Municipality may undertake the remediation at the expense of the owner of the property and that such expense may be collected in the same manner that a tax may be collected or enforced under The Municipal Act;
- (iv) advise that the final date for filing a Notice of Objection, substantially in the form attached as Schedule C, by the Registered Owner and/or Occupier, is fourteen (14) days from the date of the "Order to Comply", accompanied by a copy of Schedule C thereof.
- (v) a copy of the applicable by-law

#### **SERVICE OF ORDER TO COMPLY**

9. Any "ORDER TO COMPLY" issued by the designated officer under subsection 8(b) of this by-law shall be served upon:
  - (a) the owner(s), and or any designated person as director or attorney;
  - (b) the occupier(s), if any, and or any designated person as director or attorney;
  - (c) in respect to any order alleging a violation of subsection 3(b) (unsafe structures), the mortgagee, if any; in one or more of the following manners:
    - (d) personal service;
    - (e) registered mail, at the last known address;
    - (f) attaching same to a prominent place on the subject premises;
10. Service made personally shall be deemed to have been made on the date of such service.
11. Service made in all other manners, whether inside or outside the Province of Manitoba, shall be deemed to have been made five (5) days after posting.
12. If for any reason written notice, in the above mentioned cannot be given, notice may instead be given by posting it in the Rural Municipality of Dauphin Office and on the property, building/structure, and/or vehicles in question for at least fifteen (15) days, as stated within section 9 (f).
13. In the case of service upon an occupier, the address for mailing shall be the address of te property. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the Municipality. In the case of a mortgagee, the address for mailing shall be as shown according to the records of the Land Titles Office for the area within which the property is situated.

#### **APPEALS AND NOTICE OF HEARING**

14. Any interested person may appeal an "ORDER TO COMPLY" made by the designated officer, by filing with the Chief Administrative Officer of the Municipality, within fourteen (14) days from the date of the "ORDER TO COMPLY" substantially in the form attached as Schedule "C".
15. Upon receipt of an appeal in the required form, the following shall occur:
  - a) the Chief Administrative Officer of the Municipality shall cause a copy thereof to be forwarded to the Appeal committee of council, outlining the date, time and place for the hearing of the appeal, and serve notice of the same on the appellant in one or more of the following manners, no later than five (5) days prior to the appeal hearing date:
    - (i) personal service;
    - (ii) registered mail, at the last known address;
    - (iii) attaching same to a prominent place on the subject premises;
  - b) The Appeal Committee, shall hear the appeal within forty days of the receipt of the appeal.
  - c) the hearing may be adjourned from time to time as the appeal committee of council may decide

- d) if the appellant fails to appear at the hearing, the appeal shall be dismissed, and the "ORDER TO COMPLY" automatically affirmed and the enforcement reinstated retroactive to the dates specified therein.
16. Within five (5) days after the Appeal Hearing, the appointed appeal committee of council shall decide and may:
- (a) confirm the order of the designated officer;
  - (b) vary the order of the designated officer in any respect; or
  - (c) substitute the order of the designated officer.
  - (d) cancel the order of the designated officer.
- The Appellant shall be notified by registered mail, of the decision of the board.
17. The Appeal Committee's decision is final on the issue and not subject to further appeal.

#### **ENFORCEMENT AND REMEDIAL ACTION**

18. The Municipality may take whatever action or measures are necessary to remedy the contravention of this by-law or any Act, the Municipality is authorized to enforce or prevent a re-occurrence of the contravention once the ORDER TO COMPLY has been issued, which directs the person to take any action or measure necessary to remedy the contravention, and the person has not complied with the order within the time specified, and the appeal period has passed or the appeal has been decided.
19. The Municipality, its Employees, agents, and the Designated Officer may enter upon any property whether private or public, to remedy the contravention.
20. The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality and may:
- a) recover the cost and any other costs incurred for the enforcement of this by-law
  - b) charge the cost and any other costs incurred for the enforcement of this by-law against the land concerned, in addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.
  - c) both 19 (a) and (b)
21. The Municipality may sell all or part of the items/structures removed from the property, and will utilize the proceeds of the sale to pay the expenses and costs of the removal. In the case of a structure removal, any excess proceeds will be paid to the persons entitled to them.


#### **PENALTIES**

22. Any person who contravenes or disobeys, or refuses or neglects to obey or comply with any order made under this by-law is guilty of an offence and is liable, on summary conviction, to a fine not exceeding one-thousand dollars (\$1,000.00) and costs, or in the case of an individual, to imprisonment for a term not exceeding six (6) months, or to both such a fine and such an imprisonment.
23. Where a corporation commits an offence under this by-law, each director or officer of the corporation who authorized, consented to, connived at or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offence or offences, is likewise guilty of the offence and is liable on summary conviction, to the penalties for which provision is made in section twenty-one (21) above.
24. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.

**REPEALS**

25. By-Law No. 2926 of the Rural Municipality of Dauphin be hereby repealed

Done and passed in council assembled at Dauphin in the Province of Manitoba this 9<sup>th</sup> day of August 2017.

  
\_\_\_\_\_  
Dennis Forbes  
Reeve

  
\_\_\_\_\_  
Laura Murray  
Chief Administrative Officer

Read the first time this 11<sup>th</sup> day of July 2017.  
Read a second time this 11<sup>th</sup> day of July 2017.  
Read a third time this 9<sup>th</sup> day of August 2017.

**For:**  
Dennis Forbes  
Jack Bremner  
Don Dunfield  
Tom Gibbs  
Ron Ryz  
Dennis Tokar

**Against:**

**Abstained:**

**Absent:**  
John DeWarle



# NOTICE OF VIOLATION



## SCHEDULE "A"

In accordance with the Rural Municipality of Dauphin By-Law No. 2991 establishing standards of maintaining property, regulating nuisances, abandoned and unsightly/unsafe property, and derelict vehicles.

File Reference #: \_\_\_\_\_

<b>Date of Notice:</b>	
<b>Registered Owner:</b>	
(Mailing Address)	
<b>Occupier (Tenant) if any:</b>	
(Mailing Address)	
<b>Roll Number:</b>	
<b>Lot, Block, Plan:</b>	
<b>Legal Description:</b>	

Acting upon By-Law No. 2991, the Designated Officer had cause to inspect your property at the above noted legal description, within the Rural Municipality of Dauphin.

<b>Date of inspection made by Designated Officer:</b>	
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Upon inspection of the property, it is apparent that a violation exists in accordance with The Rural Municipality of Dauphin By-law No. 2991 due to:

Therefore, we request that you rectify the situation in the following manner:

<b>Date to be completed on, or before:</b>	
--------------------------------------------	--

In accordance with Section 239(1) of the Municipal Act, I will enter onto the Property to conduct a second inspection. If there has been no compliance with this notice, an Order to Comply may be issued authorizing the Municipality to take actions or measures necessary to bring the property into compliance with this By-Law. The costs of such actions or measures are an amount owing to the Municipality by the Owner of the Property. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.

Your cooperation and assistance in this matter are appreciated.

<b>Date &amp; approx. time of 2<sup>nd</sup> inspection:</b>	
<b>If you have any questions, please contact the Designated Officer at:</b>	(204)

Respectfully,

Designated Officer  
The Rural Municipality of Dauphin



## ORDER TO COMPLY

### SCHEDULE "B"



In accordance with the Rural Municipality of Dauphin By-Law No. 2991 establishing standards of maintaining property, regulating nuisances, abandoned and unsightly property, and derelict vehicles.

File Reference #: \_\_\_\_\_

<b>Date of Order:</b>	
<b>Registered Owner:</b>	
(Mailing Address)	
<b>Occupier (Tenant) if any:</b>	
(Mailing Address)	
<b>Roll Number:</b>	
<b>Lot, Block, Plan:</b>	
<b>Legal Description:</b>	

Further to the Notice sent to you on the date outlined below, this is to advise you that, as per your notice, a second inspection of your property found that it is, and/or continues to be in violation of the Rural Municipality of Dauphin's By-Law No. 2991, establishing standards of maintaining property, regulating nuisances, abandoned and unsightly/unsafe property, and derelict vehicles.

<b>Date of Notice of Violation (1<sup>st</sup> Notice):</b>	
<b>Date &amp; time second inspection was completed:</b>	

Specifically, your property contains the following, which causes basis for violation:


**Under the authority of Section 242(1) of the Municipal Act, you are hereby ordered to make the following changes to bring your property into compliance with the Rural Municipality of Dauphin minimum standards of By-Law No. 2991.**

Action required to rectify the situation in the following manner:


<b>Date to be completed on, or before:</b>	
--------------------------------------------	--

**In the event that you do not comply with this order, the costs of the actions or measures taken by the Municipality to carry out the terms of an Order issued by the Designated Officer are an amount owing to the Municipality by the Owner of the Property. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under the Municipal Act.**

**You may appeal this Order to Comply in writing by filing with the Chief Administrative Officer of the Rural Municipality of Dauphin within fourteen (14) days of the date of this Order, an objection substantially in the form attached to the by-law as Schedule "C", a copy of which is attached.**

<b>If you have any questions, please contact the Designated Officer at:</b>	<b>(204)</b>
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Respectfully,

Designated Officer  
The Rural Municipality of Dauphin

- Attachments to Schedule "B":
- Copy of Notice of Violation, if served
  - Copy of Notice of Objection Form
  - Copy of By-Law No. 2926



## NOTICE OF OBJECTION

### SCHEDULE "C"



In accordance with the Rural Municipality of Dauphin By-Law No. 2991 establishing standards of maintaining property, regulating nuisances, abandoned and unsightly property, and derelict vehicles.

File Reference #: \_\_\_\_\_

**IN THE MATTER OF** By-Law No. 2991, being a By-Law of The Rural Municipality of Dauphin, establishing standards of maintaining property, regulating nuisances, abandoned and unsightly/unsafe property, and derelict vehicles.

TO: The Rural Municipality of Dauphin  
 Located on Highway 20A East  
 P.O. Box 574  
 Dauphin, Manitoba  
 R7N 2V4

**PLEASE TAKE NOTICE** that the undersigned Appellant hereby appeals to the appeal committee of Council of the Rural Municipality of Dauphin regarding the Order to Comply issued, by the Designated Officer of the Rural Municipality of Dauphin, with the following specifications:

<b>Date of Order:</b>	
<b>Roll Number:</b>	
<b>Lot, Block, Plan:</b>	
<b>Legal Description:</b>	
<b>Name and Title of Designated Officer, which Order was issued:</b>	
<b>Specifically describe the nature of the remedy / repair ordered, on the above noted property:</b>	

DATED at Dauphin, Manitoba, this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
 Name of Appellant (Please Print):

\_\_\_\_\_  
 Signature of Appellant

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Address of Appellant