

BY-LAW NO. 2191-17

CITY OF WINKLER

Being a by-law under The Municipal Act to regulate Nuisances and Unsightly property in the City of Winkler. The Council of the City of Winkler in meeting duly assembled enacts as follows:

DEFINITIONS AND INTERPRETATION

1. By-Law Name

This by-law may be referred to as the “**Unsightly Property By-Law**”

2. Definitions

- a) Unless otherwise expressly provided, or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in “The Municipal Act”.
- b) “**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.
- c) “**City**” means the City of Winkler
- d) “**Noxious weeds**” means plants designated as weeds in The Noxious Weeds Act and Regulations as amended from time to time.
- e) “**Rubbish**” means decaying or non-decaying solid and semi-solid wastes, including, but not limited to both combustible and non-combustible wastes, such as paper, trash, refuse, cardboard, waste material, cans, glass, bedding, mattresses, crates, rags,, barrels, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, construction and demolition waste; unlicensed, dilapidated, unused or stripped automobiles, tires, machinery, mechanical or metal parts, discarded or dilapidated appliances, discarded or dilapidated furniture, ashes from fireplaces and on-site incinerators, yard clippings and brush, wood, dry vegetation, weeds, dead trees, rodent infestations, animal feces and piles of earth mixed with any of the above;
- f) “**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

- g) **“unsightly property”** means a property which in the opinion of the designated officer is detrimental to the surrounding area, including but not limited to the growth of grass to a length which is unsightly, the growth of weeds or the disrepair of buildings/structures so that same become a nuisance to adjoining properties.

3. Application

This by-law applies to all property and to all owners and occupiers of property within the City.

4. Standards

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) The storage of household appliances, whether or not the same are capable of operation;
- e) The growth of weeds as defined in The Noxious Weeds Act so that the same become a nuisance to adjoining properties;
- f) The growth of grass to a length which in the opinion of the designated officer is unsightly;
- g) The growth of trees, hedges, bushes or shrubs or other growths that are a hazard to the safety of persons, likely to damage public property or seriously inconvenience the public to remain on the land of that Owner or Occupier;
- h) The parking of vehicles on a front, side or back yard in any residential district except a designated driveway is prohibited.
- i) Water ponding or accumulation, unless the ponding is a natural occurrence or approval to retain water on the land was granted by an authority having jurisdiction and the water is being retained in accordance with that approval;
- j) any excavation or basement area left after a building or structure is demolished to become or remain filled with water.

5. Complaint

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.

6. Inspections

The Designated Officer is authorized to enter any property within the City of Winkler for the purposes of determining compliance with this By-law and may;

- a) Enter upon the land at any reasonable time, without consent of the owner or resident;

- b) Request that anything be produced to assist with such inspection; and
- c) Make copies of anything related to such inspection.

7. Warnings and Orders

Where inspections reveal a violation of any provision of this by-law, the designated officer:

- (a) may in his or her discretion give written notice of 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 warning notice, if any, provided under subsection 7(a) above, or if in his or her discretion no such warning notice is provided, the designated officer shall issue a written order which shall:
 - (i) specify the time within which compliance shall be required;
 - (ii) advise that should compliance not be effected within the specified time, the City 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;
 - (iii) advise of the process of appeal;
 - (iv) be substantially in the form attached as Schedule B;

8. Appeals

Any interested person may appeal an order made by the designated officer by filing with the City Manager of the City at any time before the time for compliance with such order an objection substantially in the form attached as Schedule "C".

- 9.** Upon receipt of an appeal in the required form, the City Manager of the City shall cause a copy thereof to be forwarded to the council forthwith and the council shall entertain such appeal within forty days of receipt of same by holding a hearing. A notice of hearing shall be issued by council and shall be served upon the persons and in the manner specified in section 11 below no later than 5 days prior to the appeal hearing.

- 10.** The council shall determine an appeal within 5 days of a hearing and shall serve a notice of disposition forthwith upon determination, upon the interested persons. The council may:

- (a) confirm the order of the designated officer;
- (b) vary the order of the designated officer in any respect; or

- (c) set aside the order of the designated officer.

Service of Notices or Orders

- 11. Any order issued by the designated officer under subsection 7(b) and a notice of hearing issued under section 9 hereof of this by-law shall be served by personal service or by registered mail upon:

- (a) the owner;
- (b) the occupier, if any; and
- (c) in respect to any order alleging a violation of subsection 4(b) (unsafe structures), the mortgagee, if any;

of the property effected by order.

- 12. Service made personally shall be deemed to have been made on the date of such service and service made by registered mail shall be deemed to have been made 3 days after posting. In the case of service upon an occupier, the address for mailing shall be the address of the property. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the City. 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.

Enforcement

- 13. The costs of actions or measures taken by the City to carry out the terms of an order issued by the designated officer are an amount owing to the City by the owner of the property. In addition to all other rights of collection which the City may have at law, such amounts may be collected by the City in the same manner as a tax may be collected or enforced under The Municipal Act.
- 14. 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 in accordance with the City of Winkler Fees and Charges By-law, which may be amended from time to time.
- 15. 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 14 above.

16. 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.

Done and passed in council assembled at the City of Winkler in the Province of Manitoba this _____ day of _____, 20__.

City of Winkler,

Mayor

City Manager

Read the first time this 26th day of September, 2017.

Read a second time this 24 day of October , 2017.

Read a third time this 24 day of October , 2017.

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SCHEDULE "A"

Date

File:

_____ *(name and address)*

Dear Sir/Madam:

Re: _____ **Unsightly/Unsafe Property By-Law**
Name of City

Acting upon a written complaint, the designated officer had cause to inspect your property at _____ in _____.
civic and legal address Name of City

Upon inspection of the property, it is apparent that a violation exists in accordance with _____ By-law No. _____ due to _____ .
Name of City

Therefore, the City requests that you rectify the situation by *(describe violations/ describe remedy)* on or before _____ .
(date)

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

Your cooperation and assistance in this matter is appreciated.

If you have any questions, please contact the writer at _____.

Sincerely,

Designated officer

SCHEDULE "B"

Date

File:

_____ *(name and address)*

Dear

Re: Unsightly/Unsafe Property at _____

(Civic and Legal Address)

[Further to my letter of _____ ,] this is to advise you that an [a second]

(date)

inspection of your property at

conducted on _____

(Civic and Legal Address)

(inspection date)

found that it is [continues to be] in violation of the City of _____

(Name of City)

Unsightly Property By-Law No. _____. (the "By-Law")

Specifically, your property contains _____ on your property which to date has not been removed.

Under the authority of Section 242 (1) of The Municipal Act, you are hereby ordered to

_____ on or before _____. In the event that you do not comply with

(Describe Order/Remedy)

(date)

this order, please note that section 15 of the By-law provides as follows:

The costs of actions or measures taken by the City to carry out the terms of an order issued by the designated officer are an amount owing to the City by the owner of the property. In addition to all other rights of collection which the City may have at law, such amounts may be collected by the City in the same manner as a tax may be collected or enforced under The Municipal Act.

You may appeal this order in writing by filing with the City Manager of the City at any time before the time for compliance with such order has elapsed an objection substantially in the form attached to the By-law as Schedule "C".

I trust you will govern yourself accordingly.

Sincerely,

Designated Officer

SCHEDULE "C"

Unsightly Property By-Law No. _____ of the _____
(Name of City)

IN THE MATTER of the Unsightly Property By-Law No. ____ of the _____.
(Name of City)

NOTICE OF OBJECTION

To: _____
(Name of City)

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council

of the _____ from the Order to _____
(Name of City) (Nature of Remedy/Repair)

made by _____ on the _____ day of
(name and title)

_____, 20____ respecting the premises known as _____ .

Dated at _____, Manitoba, this _____ day of _____, 20____.

Signature of Appellant (Print Name)

Address