

**THE TOWN OF CHURCHILL
BY-LAW NO. 793/2019**

BEING A BY-LAW OF THE TOWN OF CHURCHILL TO SET PROPERTY STANDARDS

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;

...

(f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;

...

(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

(a) regulate or prohibit;

...

(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;

(e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:

(i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the costs of regulation,

...

(iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law,

233 A by-law under Section 232(1)(c)(activities or things in or on 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;

...

(d) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odors, unsightly property, fumes and vibrations.

236(1) Without limiting the generality of clause 232(1)(o) (enforcement of by-laws) and subject to subsection (3), 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 subclause (ii) may be collected in any matter 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 subclause (vi),

(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 violating 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 necessary and expedient to pass a by-law for the purpose of maintaining property to standards as set forth herein, for regulating and abating nuisances, and for regulating and abating derelict, abandoned and unsightly property;

NOW THEREFORE THE COUNCIL OF THE TOWN OF CHURCHILL, DULY ASSEMBLED, HEREBY ENACTS THE FOLLOWING BY-LAW:

PART ONE

INTERPRETATION

1. Title

This By-law shall be known as the **Property Standards By-law**.

2. Definitions

In this By-law:

Building means any Structure used or intended for supporting or sheltering any use or occupancy;

Construction and Demolition Waste means building materials including rubble resulting from construction, remodeling, repair, demolition, or fire in houses, commercial buildings, driveways, pavement or other structures;

Council means the Council of the Town of Churchill;

Derelict Vehicle means any motorized vehicle that:

- a) is not in operating condition;
- b) cannot meet safety standards as legislated by the Province of Manitoba from time to time and does not have attached and exposed one or more permit plates for the current registration year that legally allows it to be driven on a public roadway under the Highway Traffic Act or has not had such registration in the last 12 months;
- c) is abandoned or is being kept by the owner for the purposes of salvaging or selling parts or for the eventual sale as scrap metal; or
- d) includes the body or chassis of a used motor vehicle or some of the parts which have been removed;

Designated Officer means a person prescribed under any by-law of the Town as a Designated Officer, and includes but is not limited to the By-law Enforcement Officer, Building Inspector, Fire Inspector, or any other person or agency employed by or acting for the Town and partially or wholly responsible for public safety, fire safety, building safety, and/or property standards within the Town;

Garbage means any garbage, litter, trash or junk including (without limiting the generality of the foregoing) unwanted or discarded household items; tree branches, grass and shrub clippings, leaves or other general yard or garden waste; motor vehicle parts or tires; newspapers, magazines, packaging materials, waste paper or cardboard; animal remains or carcasses; and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is offensive in light of reasonable community standards of cleanliness or generally accepted neighbourhood aesthetics;

Notice of Objection/Appeal means a notice in the form attached hereto as **Schedule "C"**;

Notice of Violation means a notice in the form attached hereto as **Schedule "A"**;

Occupier means a person who, with respect to a piece of land, is a lessee, licensee, invitee, permittee, purchaser, homesteader, pre-emption entrant or squatter and includes a party claiming through or under such person;

Order to Comply means an order in the form attached hereto as **Schedule "B"**;

Owner means any person registered or recorded as the owner of the Property according to the current assessment records of the Town;

Protective Surface includes any layer of material over the structural surface of a Building intended or required to protect the structural surface against deterioration or to decorate the structural surface and without limiting the generality of the foregoing, includes paint, varnish, stucco, brick or stone facing, wood or asphalt shingle and any kind of siding;

Public Area means any area that is used or held out for use by the public, including but not limited to school grounds, parking lots, roadways, sidewalks, alleys or other public ways and any all public parks, public squares, spaces, grounds and Buildings which are owned by or under the control and jurisdiction of the Town;

Structure means anything constructed or erected on the ground or attached to the ground, including but not limited to Buildings, walls, fences, porches, sheds, signs, billboards, poster panels, light standards and similar forms; and

Town means the Town of Churchill.

PART TWO

STANDARDS

3. Public Areas

- a) No person shall sweep, dump or otherwise deposit or dispose of any Garbage onto any Public Area without the permission of the Designated Officer.
- b) Every Owner and Occupier shall keep the sidewalk and boulevard in the front and side of, and the lane at the rear of, their Property free and clear of Garbage.

4. Property Standards

a) Garbage on Property

No Owner or Occupier shall permit on their Property, and every Owner and Occupier shall keep their Property free and clear of:

- (i) Garbage;
- (ii) Construction and Demolition Waste; and
- (iii) Derelict Vehicles, subject to Section 6.

b) Boulevard Maintenance

Every Owner and Occupier shall maintain the lawn on the boulevard adjacent to their Property.

c) Depositing Natural Waste In Roadways

Notwithstanding any other by-law of the Town, no Owner or Occupier may deposit snow, leaves or other similar materials or debris onto a roadway or back lane. Snow from driveways is to be left on the shoulder of the roadway to be picked up by snow clearing equipment.

5. Building and Occupancy Standards

- a) Exterior surfaces and openings of every Building and Structure shall be of materials which provide adequate protection from the weather.
- b) Every Building and Structure shall be maintained in good repair so that no component thereof is broken, loose, rotted, warped, out of plumb, off-level, or out of alignment to which it was designed or constructed or is without a Protective Surface.

6. Storage of Derelict Vehicles

a) Derelict Vehicles

Subject to Subsection 6(b), no owner or Occupant may keep or allow to be kept on their Property any Derelict Vehicle. Every vehicle that is properly permitted for storage on a

property must be neatly stored in a Building or parked at the rear of the Property or stored in a manner consistent with this By-law.

b) Permitted Storage

An Owner or Occupant may apply to the Town for a permit to store up to a maximum of two (2) Derelict Vehicles on their Property for a fee as prescribed by the Town's Fees and Charges By-law 785/2018. Such permit is valid for a maximum of six (6) months, the fee for which shall prorated monthly, payable in advance. If permitted by the Town:

- (i) a Derelict Vehicle must be neatly stored in a manner acceptable to the Town and/or the Designated Officer;
- (ii) no Property may house more than two (2) Derelict Vehicles at any time; and
- (iii) subject to Subsection 6(c), no Derelict Vehicle may remain in the Town in the same condition for more than six (6) months.

c) Extension

An Owner or Occupier may apply for an extension of a permit issued pursuant to Subsection 6(b) for an additional six (6) months may be made in writing to the Town. If approved by the Town, the monthly fee will continue as set out in Subsection 6(b).

d) Enforcement for Improperly Stored Derelict Vehicles

The Owner or Occupant of any Derelict Vehicle in violation of this By-law may be invoiced by the Town for six (6) months of storage, same to be in accordance with the fee set out in Subsection 6(b). If the invoice is not paid within thirty (30) days of issuance, the Owner or Occupant may be subject to a fine and/or the Derelict Vehicle may, at the discretion of the Designated Officer, be removed by the Town and impounded for a period of forty-five (45) days and the following shall apply:

- (i) The Owner or Occupant of the Derelict Vehicle may recover same by paying the full cost of the fine in addition to the cost of removal and impoundment;
- (ii) The Derelict Vehicle may remain in the Town if it remains in compliance with this By-law, or if the vehicle cannot lawfully remain in the Town the same must be removed from the Town;
- (iii) All costs for removal and impoundment of the Derelict Vehicle are the sole responsibility of the Owner or Occupier (as the case may be). If such costs are not paid in full by the time limit stipulated, the Town may collect such costs in the same manner that municipal tax may be collected or enforced under the Act; and
- (iv) In the event that the Derelict Vehicle is not claimed by the Owner or Occupier during the impoundment period, the Town or the Designated Officer may destroy or otherwise dispose of the Derelict Vehicle.

7. Places of Business and Spaces Open to the Public

- a) Every Owner or Occupier of a place of business shall keep such Property, as well as the sidewalks and boulevard in front

of and flanking the Property and the lane at the rear of the Property, free of Garbage.

- b) Every Owner and Occupier in lawful control of a public space (or portion thereof) shall provide Garbage and recycling receptacles in appropriate and easily accessible locations and are responsible for the servicing and maintenance of such receptacles.

PART THREE

COMPLAINTS AND INVESTIGATIONS

8. Complaints

Any person may make a complaint with respect to an alleged 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 require.

9. Investigations

Upon receiving a complaint pursuant to Section 8, the Designated Officer shall investigate and/or inspect the Property that is the subject of the complaint in such manner as is reasonable and necessary in order to determine whether or not a violation of this By-law has occurred. The Designated Officer has the discretion to investigate any complaint on a case-by-case basis or in the course of its patrol activities.

PART FOUR

ADMINISTRATION AND ENFORCEMENT

10. Enforcement of Property Offences

a) Notice of Violation

Where the Designated Officer determines that a violation of any provision of this By-law has occurred, the Designated Officer may issue a Notice of Violation to the Owner or Occupier (as the case may be). The Notice of Violation shall be sent by regular mail and shall:

- (i) state the name(s) of the Owner(s) and/or Occupier(s) of the Property;
- (ii) include a description and location of the Property;
- (iii) include a description of the violation;
- (iv) include a description of the remedial action required;
- (v) specify the length of time allowed to remedy the violation; and
- (vi) be in the form attached hereto as **Schedule "A"**.

b) Order to Comply

In the event that the remedial action specified in the Notice of Violation has not been completed by the Owner or Occupier by the date specified, the Designated Officer may issue an Order to Comply to the Owner or the Occupier (as the case may be). The Order to Comply shall:

- (i) state the name(s) of the Owner(s) and/or Occupier(s) of the Property, as per the Notice of Violation;
- (ii) include a description and location of the Property, as per the Notice of Violation;

- (iii) include a description of the violation, as per the Notice of Violation;
- (iv) specify the final date for remedying the violation, which shall be a minimum of twenty-one (21) days from the date of the Order to Comply;
- (v) advise that, should the remedial action required not be effected within the time specified, the Town may undertake the remedial action at the expense of the Owner or Occupier and that such expense may be collected in the same manner that municipal tax may be collected or enforced under the Act;
- (vi) specify the final date for filing a Notice of Objection/Appeal to the Order to Comply, which shall be a maximum of twenty-one (21) days from the date of the Order to Comply;
- (vii) attach a copy of the Notice of Objection/Appeal;
- (viii) include the penalty provision of this By-law (if applicable);
- (ix) include such other information or direction as the Town deems appropriate; and
- (x) be in the form attached hereto as **Schedule "B"**.

c) Service of Order to Comply

The Order to Comply shall be issued to the Owner or Occupier (as the case may be) by any one (1) or more of the following manners:

- (i) Personal service/delivery on such person, or (in the case of a corporation) on any officer, director or attorney for service of the corporation;
- (ii) Registered mail to such person or (in the case of a corporation) on any officer, director or attorney for service at such person's last known address;
- (iii) E-mail service on such person or (in the case of a corporation) any officer, director or attorney for service such person's last known email address;
- (iv) Facsimile service on such person or (in the case of a corporation) on any officer, director or attorney for service at the last known facsimile number; or
- (v) Attaching same to a prominent place on the Property described in the Order to Comply.

Personal service/delivery shall be deemed to have been effected on the date of such service/delivery. In all other manners of service, whether inside or outside the Province of Manitoba, service shall be deemed to have been effected on the 5th day after the document has been mailed, e-mailed, faxed or attached. If for any reason notice cannot be effected as outlined above, notice may instead be given by posting the Order to Comply at the Town office for at least fifteen (15) days.

d) Notice of Objection/Appeal

If an Owner or Occupier does not agree with the Order to Comply:

- (i) The Owner or Occupier (as the case may be) must submit a Notice of Objection/Appeal to the Town in the form attached hereto as **Schedule "C"**, at which time an appeal of the Order to Comply is deemed to be commenced;
- (ii) The Town shall set a date, time and place for the appeal hearing and serve notice of same on the Owner or

Occupier by regular mail or any of the other methods specified in Subsection 10(c).

- (iii) The appeal hearing shall be heard by Council.
- (iv) The appeal hearing may be adjourned from time to time as Council may decide.
- (v) If the appellant fails to appear at the appeal hearing, the appeal shall be dismissed and the Order to Comply shall be deemed to be affirmed, with the enforcement deemed to be retroactive to the dates specified therein.
- (vi) Following the appeal hearing, Council may:
 - a. affirm the Order to Comply;
 - b. vary the Order to Comply; or
 - c. substitute the Order to Comply; or
 - d. cancel the Order to Comply;
- (vii) Council's decision is final on the issue and not subject to further appeal under this By-law.

e) Emergency

Notwithstanding any other provision of this By-law, in an emergency the Town and/or the Designated Officer may take whatever actions or measures necessary to eliminate the emergency. The costs of any actions or measures taken to eliminate the emergency may be recovered by the Town from the person who caused the emergency, and may be collected in the same manner as a tax collected or enforced under the Act.

f) Posted Orders

Where a Notice of Violation or Order to Comply has been posted to any Property as permitted under this By-law, no person shall remove such copy of the order except with the consent of the Designated Officer.

11. Remedial Work

a) Town's Performance of Order

Where an Owner or Occupier fails to make the Property (or any part thereof) conform to the standards imposed by this By-law or comply with any Order to Comply, the Town may take such measures as may be necessary to make the Property conform including the performance of any work as outlined in the Order. Notwithstanding the foregoing, the Town may impose such other penalties as permitted under its by-laws and the Act.

b) Costs of Remedial Work

The Owner or Occupier is responsible for the costs of any actions or measures taken by the Town or the Designated Officer to carry out the terms of an Order to Comply and to otherwise enforce this By-law. The Town may:

- (i) recover any costs so incurred as a debt due to the Town;
- (ii) collect such costs in the same manner that tax may be collected or enforced under the Act; or
- (iii) both (i) and (ii).

c) Entry Upon Property

The Town and its employees and agents, with reasonable notice, may enter upon any Property to carry out the investigation

(including gathering photographic evidence for records), enforcement or action authorized under this By-law or the Act.

PART FIVE

PENALTIES

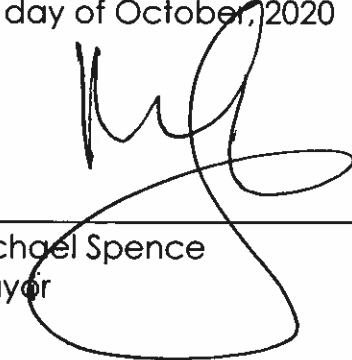
12. Separate Offence Each Day

Where the violation, refusal, neglect, omission or failure continues for more than one (1) day, the person is guilty of a separate offence for each day that it continues.

13. Corporations

Where a corporation commits an offence under this By-law, each director or officer of the corporation who authorized, consented to or knowingly permitted or acquiesced in the act or the commission that constitutes the offence, is guilty of the offence.

DONE AND PASSED as a by-law of the Town of Churchill assembled this 21st day of October, 2020



Michael Spence
Mayor



Cory Young
Executive Director

Read a first time this 16th day of October 2019
Read a second time this 16th day of January 2020
Read a third time this 21st day of October, 2020

SCHEDULE "A"

Notice of Violation

Date: _____

Roll No.: _____

File No.: _____

TO: _____

[Name and Address of Owner/Occupier]

Re: Notice of Violation - Property Standards By-law (No. 793-2019)

The Town of Churchill's Designated Officer has inspected your property located at

Upon inspection, it is apparent that there is a violation of By-law (No. 793-2019) due

to _____

The Town of Churchill is therefore putting you on notice and requesting that you
remedy the said violation by no later than _____

In accordance with section 239(1) of *The Municipal Act*, the Designated Officer will
enter onto the property on _____ to conduct a second
inspection. If there has been no compliance with this Notice, an Order to Comply
may be issued authorizing the Town to take actions and measures necessary to
bring the property into compliance with the By-law. In such event the Town will
have rights to collect all costs associated with such actions and measures as a debt
due to the Town and/or collect such costs in the same manner that tax may be
collected or enforced under *The Municipal Act*.

Your cooperation with this Notice is appreciated. If you have any questions, you
may contact the Designated Officer or the Town.

(Designated Officer)



SCHEDULE "B"

Order to Comply

Date: _____

Roll No.: _____

File No.: _____

TO: _____

[Name and Address of Owner/Occupier]

Re: ORDER TO COMPLY - Property Standards By-law No. 793-2019

Further to the Notice of Violation dated _____, a second inspection of your property located at _____ was conducted on _____

The property continues to be in violation of By-law No. 793-2019 due to _____

Under authority of section 242(1) of *The Municipal Act*, **you are hereby ordered to** remedy this violation by no later than _____

Provide details of remedial actions and measures, if applicable: _____

In the event that you do not comply with this Order, note that Section 11 of the By-law provides that the Town may perform the remedial actions and measures required under this Order and may collect all costs associated with such actions and measures as a debt due to the Town and/or collect such costs in the same manner that tax may be collected or enforced under *The Municipal Act*.

You may appeal this Order in writing by filing with the Town, at any time before the deadline for compliance under this Order, a Notice of Objection/Appeal in the form attached.

Please govern yourself accordingly.

(Designated Officer)

SCHEDULE "C"

Notice of Objection/Appeal

IN THE MATTER OF Property Standards By-law (No. 793-2019).

NOTICE OF OBJECTION/APEAL

Please take notice that the undersigned appellant hereby appeals to the Council of the Town of Churchill with respect to the Order to Comply dated

_____ in regards to _____

_____ which Order imposed a deadline for compliance by _____

The said Order is in relation to the property described as _____

DATED at _____, Manitoba this _____ day of _____, 20__.

Appellant: _____
(print name)

(signature)

(Mailing address)

