

RURAL MUNICIPALITY OF CORNWALLIS

BEING a By-Law to provide for the maintenance of property and to regulate nuisances, derelict, abandoned and unsightly property within the Municipality and to repeal and replace By-Law No. 1551/02/99 and amending By-Law No. 1561/02/2000

WHEREAS The Municipal Act provides 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 232(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 the 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 bylaw passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with;
- (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 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, charging and collecting costs incurred in respect of acting under subclause (iv), imposing a sentence of imprisonment for not more than six months for the commission of offences or nonpayment 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 recurrence 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 The Planning Act provides as follows:

"22(2) A district board shall also

...

- (d) perform such other duties as may be vested in it by the minister or may be delegated to it by a council of a member municipality ..."

NOW THEREFORE the Council of the Rural Municipality of Cornwallis assembled enacts as follows:

APPLICATION

1. This by-law applies to all property and to all owners and occupiers of property within the Rural Municipality of Cornwallis. It is the intention of this by-law to establish and maintain minimum property maintenance standards for the purpose of protecting the property values of residents of the Municipality.

DEFINITIONS

2. In this by-law:

“**Appeal**” means the review by Council of an order made under this by-law pursuant to section 244(1) of The Municipal Act.

“**Council**” means the Council of the Rural Municipality of Cornwallis.

“**Designated Officer**” means a building inspector of the Planning District or other officer appointed by Council, from time to time, to enforce this by-law or in the absence of such an appointment, the Chief Administrative Officer of the Municipality.

“**Interested Person**” means the owner, occupier or mortgagee of property in any way affected directly by an order made under the authority of this by-law.

“**Mortgagee**” means any person holding a registered mortgage against real property according to the records of the Brandon Land Titles Office .

“**Municipality**” means the Rural Municipality of Cornwallis.

“**Occupier**” means any person in actual or constructive possession of property pursuant to a lease, tenancy, license or other right of possession.

“**Owner**” means the registered owner according to the current assessment records of the Municipality.

“**Person**” means an individual, firm, partnership or corporation and where the context requires shall include the plural as well as the singular.

“**Planning District**” means the Brandon and Area Planning District as established by Order-in-Council issued under the authority of The Planning Act on January 23, 1980 and the employees and agents thereof.

“**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.

“**Rubbish**” means any garbage, trash or junk including, but not limited to unwanted or discarded household items, waste from building construction, remodeling 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.

“**Unregistered Vehicles**” means cars, trucks, vans, motorcycles, trailers, snowmobiles, buses or any other thing capable of registration under The Highway Traffic Act or The Off-Road Vehicles Act and which are not for the time being so registered and includes each detached part or group of parts thereof exceeding one foot in length, width or height but does not

include any things offered for sale by a person whose primary business is the sale of new or used things capable of registration under The Highway Traffic Act or The Off-Road Vehicles Act and which things are forthwith capable of sale to the public and registration under The Highway Traffic Act or The Off-Road Vehicles Act.

“**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.

“**Yards**” means privately owned real property around and appurtenant to a dwelling or other building used or reasonably capable of being used as a dwelling.

ADMINISTRATION

3. This by-law shall be administered and enforced by the Planning District or by one or more designated officers otherwise appointed by Council.
4. No person acting within the scope of his or her duty to administer and enforce this by-law shall be personally responsible for any act or omission while so acting.

PROPERTY MAINTENANCE STANDARDS

5. (a) An owner or occupier of property shall keep it free and clear from:
 - (i) rubbish, garbage and other debris and
 - (ii) objects, conditions or substances that present a health, fire or accident hazard; and
 - (iii) objects, conditions or substances that constitute a nuisance; and
 - (iv) unsafe conditions.
- (b) No owner or occupier of property shall have on it at any time more than 4 unregistered vehicles unless each unregistered vehicle in excess of 4 is:
 - (i) stored in a garage, shed or completely enclosed structure; or
 - (ii) is fully secured from public view by a natural or artificial barrier.
- (c) Yards shall be graded in such a manner as to prevent the excessive or recurrent ponding of storm water or the entrance of water into a basement or cellar and shall be cultivated or protected with a suitable ground cover to prevent erosion of the soil.

COMPLAINTS

6. Any person may allege a violation of this by-law by filing a written complaint with a designated officer in such form and with such particulars as a designated officer from time to time may require.

INSPECTIONS

7. Upon receipt of a complaint, a designated officer shall inspect such property as shall be reasonably necessary to determine whether or not there is or has been a violation of this by-law.
8. For the purpose of inspection under this by-law, a designated officer may after giving reasonable notice to the owner or occupier enter upon, inspect and view any property. A designated officer shall produce on request identification showing that he or she is authorized to make the entry.

WARNINGS AND ORDERS

9. Where inspections reveal a violation of any provision of this by-law, a designated officer :
 - (a) may in his or her discretion give written notice of the contravention to the owner and to the occupier and mortgagee, if any, 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 (a) above, or if in his or her discretion no such warning is provided, a designated officer shall issue a written order which shall:
 - (i) specify the time within which compliance shall be required and such time shall be not less than twenty (20) days or more than one hundred and fifty (150) days from the date of the order;
 - (ii) advise that should compliance not be effected within the specified time, the Municipality may undertake 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; advise of the process of appeal;
 - (iii) be substantially in the form attached as Schedule "B";
 - (iv) the time for compliance with a warning or an order issued under subsections (a) or (b) above may be postponed once by a designated officer for a period of not more than ninety (90) days.

APPEALS

10. An interested person may appeal an order made by a designated officer by filing with the Chief Administrative Officer of the Municipality within fourteen (14) days after the date the order is received by the interested person an appeal substantially in the form attached as Schedule "C".
11. Upon receipt of an appeal substantially in the required form, the Municipality shall cause a copy thereof to be forwarded to a designated officer forthwith and the Council shall entertain such

appeal by holding a hearing. Each interested person filing an appeal and a designated officer are entitled to attend such hearing with or without counsel and to present evidence and make submissions. The procedure to be used at such hearing shall be the procedure outlined in the then current Procedural By-law of the Municipality for public hearings, supplemented and modified as the Council shall determine and a majority of the Council shall constitute a quorum. The decision of a majority of the Council attending shall constitute the decision of Council. A notice of hearing shall be issued by the Municipality and shall be served upon the interested persons and in the manner specified in this by-law no later than five (5) days prior to the appeal hearing.

12. The Council of the Municipality shall determine an appeal within five (5) days of its hearing and shall serve upon the interested persons and a designated officer a notice of disposition forthwith upon determination. The Council may:

- (a) confirm the order of a designated officer, or
- (b) vary the order of a designated officer in any respect;
- or
- (c) substitute another order for the order of a designated officer, or
- (d) set aside the order of a designated officer.

SERVICE

13. A copy of any order issued under this by-law or a postponement thereof or a notice of hearing or a notice of disposition of an appeal shall be served by personal service or by registered mail upon

- (a) the owner;
- (b) the occupier, if any, and
- (c) the mortgagee, if any

of the property affected by an order.

14. Service effected by personal service shall be deemed to have been made on the date thereof and service by registered mail shall be deemed to have been made three (3) days after posting. In the case of service by registered mail 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 that shown on the current assessment records of the Municipality. In the case of a mortgagee, the address for mailing shall be that shown on the records of the Brandon Land Titles Office.

15. Service of deceased persons may be made by service upon any one of their heirs, executors or administrators and service upon corporations may be made by service upon any officer of the corporation as disclosed in its most current information in the records of the Corporations Office.

ENFORCEMENT

16. Every person who omits, neglects or refuses to comply with an order made under this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one month, or both.

17. Every person who obstructs or interferes with an inspection is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding one month, or both.

18. The costs of actions or measures taken by or on behalf of the Municipality to carry out the terms of an order issued by a 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

19. By-Law Nos. 1551/02/99 and 1561/02/2000 are repealed.

RECEIVED first reading this 18th day of June, 2002.


RECEIVED second reading this 16th day of July, 2002.

RECEIVED third reading this 16th day of July, 2002.

DONE AND PASSED in Council duly assembled this 16th day of July, 2002.

Rural Municipality of Cornwallis
Per:


Reeve


Chief Administrative Officer

SCHEDULE "A"

File _____

WARNING

TO: _____ as Occupier
AND TO: _____ as Owner
AND TO: _____ as Mortgagee

RE: Rural Municipality of Cornwallis Property Standards By-Law

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

Upon inspection of the property, it is apparent that a violation exists in accordance with Rural Municipality of Cornwallis By-Law No. _____ due to _____.

Therefore the Municipality 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 Municipality 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 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 is appreciated.

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

Signed this _____ day of _____, 20____.

Sincerely,

Jane Doe
Designated Officer

SCHEDULE "B"

File _____

RURAL MUNICIPALITY OF CORNWALLIS
PROPERTY STANDARDS BY-LAW NO. _____

ORDER TO MAINTAIN

TO: _____ as registered owner
AND TO: _____ as occupier
AND TO: _____ as Mortgagee

RE: Standard of Property at _____
(Civic and Legal Address)

[Further to my letter of _____] this is to advise you that an
(Date)
(a second) inspection of your property at _____
(Civic and Legal address)
conducted on _____ found that it is [continues to be] in violation
(Inspection Date)
of the Rural Municipality of Cornwallis Property Standards By-Law No. _____
("The By-Law").

Specifically, your property contains _____
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 _____
(Describe Order/Remedy)(date). In the event
that you do not comply with this order, please note that the By-Law provides as
follows:

The costs of actions or measures taken by or on behalf of the
Municipality to carry out the terms of an order issued by a 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 in writing by filing with the Chief Administrative Officer
of the Municipality within fourteen (14) days after the date the order is received
an appeal substantially in the form attached to the By-Law as Schedule "C".

SIGNED this _____ day of _____, 20_____.

Sincerely,

Jane Doe
Designated Officer

SCHEDULE "C"

PROPERTY STANDARDS BY-LAW NO. _____

IN THE MATTER of the Property Standards By-Law No. _____ of The Rural Municipality of Cornwallis.

APPEAL

TO: Chief Administrative Officer
The Rural Municipality of Cornwallis
Site 500 Box 10 RR#5
Brandon, Manitoba R7A 5Y5

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural Municipality of Cornwallis from the Order to _____

Repair or Demolish; Vacate Dwelling; etc.

Made by _____
Name and Title
on the _____ day of _____, A.D. 20____ respecting the property known as _____

Dated at _____, Manitoba, this _____ of _____, A.D. 20____.

Signature of Appellant

Name of Appellant

Address