



## CITY OF DAUPHIN

### BY-LAW NUMBER 07/2004

#### **BEING A BY-LAW OF THE CITY OF DAUPHIN TO ESTABLISH A MINIMUM STANDARD OF MAINTENANCE FOR DWELLINGS AND OTHER STRUCTURES, AND TO REGULATE YARDS, NUISANCES, LITTER, DERELICT VEHICLES**

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**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;*

233 *A by-law under clause 232(1)(c) 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), 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 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 subclause (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 a standard of maintenance for dwellings and other structures, and regulating and abating nuisances, derelict vehicles, litter, and unsightly properties.

**NOW THEREFORE THE COUNCIL OF THE CITY OF DAUPHIN , IN COUNCIL ASSEMBLED, HEREBY ENACTS AS A BY-LAW AS FOLLOWS:**

**PART ONE**

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## DEFINITIONS AND APPLICATION

### 1. DEFINITIONS:

#### (a) In This Bylaw:

- 1) “Animal” means any creature not human.
- 2) “Animal and Agricultural Waste” means manure, crop residues and like material from agricultural pursuits, stables, kennels, veterinary establishments and other such premises.
- 3) “Ashes” means residue from the burning of wood, coal and other like material for the purpose of cooking, heating buildings, and disposing of waste combustible materials.
- 4) “Building” means any Structure used or intended for supporting or sheltering any use or occupancy.
- 5) “Bulky Waste” means large items of refuse including, but not limited to, appliances, furniture, large auto parts and large crates.
- 6) “City” means the City of Dauphin. “Council” means the Council of the City of Dauphin.
- 7) “Construction and Demolition Waste” means waste building materials and rubble resulting from construction, remodelling, repair, demolition, or fire in houses, commercial buildings, driveways, pavement and other structures.
- 8) “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 license plates for the current registration year and is kept in the open.
- 9) “Designated Officer” means the By-law Enforcement Officer, Building Inspector, Fire Inspector, or any other Person or agency employed by or acting for the City of Dauphin and partially or wholly responsible for public safety, fire safety, building safety, and Property Standards within the City of Dauphin.
- 10) “Dwelling” includes any Building, part of a Building, trailer or other covering or Structure, the whole or any portion of which has been used, is used, or is capable of being used for the purposes of human habitation with the land and Premises appurtenant thereto and all Accessory Buildings, Fences or erections thereon or therein, and every Dwelling Unit within the Building.
- 11) “Dwelling Unit” means one or more rooms located within a Dwelling and used or intended to be used for human habitation by one or more Persons with cooking, eating, living and sleeping facilities and with separate sanitary facilities.
- 12) “Engineer” means the City of Dauphin Municipal Engineer or any person duly appointed to act in his stead.

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- 13) "Fence" means a railing, wall or other means of enclosing a Yard and includes barriers and retaining walls.
  - 14) "Garbage" means animal and vegetable waste, including food packaging material and residual food materials, resulting from the handling, preparation, cooking and serving of foods in households, institutions and commercial concerns; and market wastes resulting from the handling, storage and selling of foods in wholesale and retail stores and markets.
  - 15) "Industrial Refuse" means wastes arising from, or incidental to the manufacture, processing or like operation in factories, processing plants, industrial processes and manufacturing operations and includes wastes such as putrescent garbage from food processing plants and slaughterhouses, condemned foods and products, cinders and ashes from power plants and large factories, and miscellaneous manufacturing wastes.
  - 16) "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.
  - 17) "Liquid Waste" means waste products in a liquid form.
  - 18) "Litter" means animal and agricultural waste, ashes, construction and demolition waste, dead animals, garbage, industrial refuse, rubbish, solid waste or refuse, unlicensed vehicles, liquid waste, mechanical refuse, abandoned or unattended shopping carts, and special waste, including but not limited to street cleanings, containers, packages, bottles, cans or parts thereof, deserted or discarded articles, product or goods of manufacture and piled aggregate, fill, gravel, sand, clay or topsoil.
  - 19) "Litter Receptacle" means a container in which the public may deposit litter.
  - 20) "Mechanical Refuse" means parts from or unusable, discarded or abandoned machinery equipment or vehicles.
  - 21) "Nuisance" means any condition, which is or may become injurious or prejudicial to health or hinder the suppression of disease, or which is offensive.
  - 22) "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.
  - 23) "Order" means a notice of Non-Compliance and Order to demolish or Repair a Building or clear Yards of refuse and debris pursuant to this by-law.

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- 24) "Owner" means the registered Owner of the land and Premises and includes the Person:
- i) for the time being managing or receiving the rent of the land or Premises in connection with which the word "Owner" is used, whether on his own account or as agent or trustee of any other Person, or
  - ii) who would so receive the rent if such land and Premises were let; or
  - iii) who is the vendor of such land under an agreement for sale who has paid any land taxes thereon after the effective date of the agreement; or
  - iv) for the time being, receiving installments of the purchase price of the land or Premises in connection with which the word "Owner" is used, sold under an agreement for sale whether on his own account or as an agent or trustee of any other Person; or
  - v) who would so receive the installments of the purchase price if such land or Premises were sold under an agreement for sale.
- 25) "Person" means any person, firm, partnership, association, corporation, company or organization, of any kind.
- 26) "Premises" include a Building or Accessory Building and any lands on which the Building is situated.
- 27) "Property" means any land as defined in the *The Municipal Act* within the City whether or not there is situated thereon a dwelling or any other building.
- 28) "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 insulbric siding or any other kind of siding.
- 29) "Public Area" means any area owned or operated by private or public interests, but excluding those areas referred to as a Public Place, that is used or held out for the use by the public, including but not limited to school grounds, parking lots, and the necessary passage ways thereon, road ways and pedestrian ways on private property.
- 30) "Public Place" means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings which are owned by or under the control and jurisdiction of the City.
- 31) "Repair" includes taking the necessary action to bring any building or other Structure up to the Standards required by this by-law.
- 32) "Rubbish" means combustibles, consisting of miscellaneous flammable materials, such as paper, rags, cartons, boxes, wood, wood shavings, sawdust, bedding, rubber, leather, and plastics; non-combustibles consisting of miscellaneous materials that are not flammable, such as tin cans, metals, ceramics, metal foils and glass; and yard rubbish, consisting of prunings, grass clippings, weeds, leaves, general garden wastes and tree cuttings, exclusive of solid wastes otherwise classified herein 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.
- 33) "Shopping Cart" is any wagon, cart or device designed to be either drawn or propelled by means of human power and intended principally for the conveyance of produce or merchandise in and about retail stores.
- 34) "Solid Waste or Refuse" means the useless, unwanted, or discarded solid materials resulting from normal community activities, including semi-liquid or wet wastes with insufficient moisture and other liquid content to be free flowing.
- 35) "Special Waste" means hazardous wastes consisting of any waste that may present a hazard to collection or disposal personnel, or others, and includes wastes of a pathological, explosive, highly flammable, radioactive, or toxic nature.
- 36) "Standards" means the Standards prescribed in this by-law for the maintenance and improvement of the physical condition and of any Building or other Structure or properties, or parts thereof, together with the surrounding lands.
- 37) "Street" means any public highway, boulevard, lane, park, square, subway, bridge, wharf, public easement or right-of-way, thoroughfare or way, or any part thereof.
- 38) "Structure" means anything constructed or erected with a fixed location on or below the ground, or attached to something having a fixed location on the ground and includes buildings, walls, fences, signs, billboards, poster panels, light standards and similar items.
- 39) "Tarpaulin" means a heavy waterproof canvas or synthetic fabric/material used for covering.
- 40) "Vehicle" means motor vehicle, all terrain vehicle, watercraft, aircraft, trailer, wagon, flatbed or any other means of transportation.

## **2. LITTER ON PUBLIC PROPERTY**

- (a) No person shall sweep, dump or otherwise deposit litter into any gutter, boulevard, street or other public place without the permission of the Designated Officer.
- (b) Persons owning or occupying property shall keep the sidewalk and boulevard in front of and flanking, and the lane at the rear of their property, free of litter.

## **PART TWO STANDARDS**

### **1. PROPERTY STANDARDS**

- (a) 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:

- i) Litter ;
- ii) Rubbish;
- iii) the storage of household appliances, whether or not the same are capable of operation; and/or the storage of furnishings;
- iv) the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a Nuisance to adjoining properties;
- v) the growth of grass to a length which exceeds five (5) inches ;
- vi) wrecked, dismantled, partially dismantled, inoperative, discarded abandoned or unused vehicles, trailers and other machinery or any part thereof.

**(b) Trees And Shrubs**

No person owning or occupying private property shall allow any part of a tree, shrub or sapling growing thereon to extend over or upon any street or sidewalk or back lane so as to interfere with impede or endanger persons using such street or sidewalk or lane or vehicles and maintenance equipment travelling or using lanes. When deemed necessary for the convenient and safe use of a street or sidewalk or lane, the By-Law Enforcement Officer after giving notice, may cause any tree, sapling or shrub growing or planted on any land adjoining the street or sidewalk, right-or-way or back lane and encroaching there on, to be trimmed by the City and the cost thereof shall be charged to the owner of the property.

**2. BUILDING AND OCCUPANCY STANDARDS**

**(a) Drainage**

No roof drainage or surface drainage shall be discharged on stairs or neighbouring Property. A roof, including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition so as to prevent leakage of water and drainage shall be conveyed so as not to cause dampness in the walls, ceilings, or floors of any portion of the Building itself or any adjacent Building. Without limiting the generality of this section, the maintenance required thereby includes the Repairing of eavestroughing and rainwater piping and using other suitable means.

**(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 in the City as determined by the Designated Officer.

**(c) Sound Structures**

- i) Every foundation wall forming part of a Building shall be maintained in good Repair and structurally sound so as to prevent undue settlement of the Building or the entrance of moisture, insects or rodents. Where necessary, the foundation walls shall be so maintained by shoring of the walls, installing of subsoil drains at the footing, grouting masonry cracks and by parging and waterproofing.
- ii) Where any Building is on a surface foundation and the Designated Officer is of the opinion that there is settlement or rotting of the beams or joists to such a degree as to adversely affect the occupation of the Building, he may require that the owner hire at his/her cost, a professional engineer verify the structural integrity in compliance with the provisions of the Manitoba Building Code and any amendments thereto.

- iii) Every part of a Building shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any load to which it may be subject.

**(d) Exterior Surfaces and Openings In Dwellings And Structures**

All exterior surfaces and openings shall be of materials, which provide adequate protection from the weather.

The exterior of every building and structure shall be maintained so as not to cause a substantial depreciation in property values in the immediate neighborhood.

**(e) Structures, Porches, Sheds, Stairs and Fences**

Every structure, porch, shed, stairway and fence, in or on any premise 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.

**(f) Unsanitary and Hazardous Conditions**

- i) 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, provides or may provide food or harborage for rodents, vermin and insects.
- ii) No Person shall occupy or let to another for occupancy, any Dwelling Unit or portion thereof which is not clean and sanitary.
- iii) No Dwelling, or any part thereof, or the lot upon which it is situated shall be used as a place for storage, keeping or handling of any article dangerous or detrimental to life or health.
- iv) The Designated Officer is authorized under Section 239 of The Municipal Act, with or without the consent of the Owner or Occupier, to enter upon and inspect Premises where there is in the opinion of the Designated Officer an apparent unhealthful or unsafe condition.

**3. VEHICLES**

**(a) Uncovered Vehicles**

No person shall load a vehicle with litter such that said litter may be readily disturbed by vehicular movement or wind, unless such vehicle is so constructed as to totally enclose the load or the load is covered by a tarpaulin, netting or other device of adequate size and design so as to totally cover the load.

**(b) Vehicle Loads Causing Litter**

No person shall drive or move any vehicle within the City unless such vehicle is so constructed, loaded, or covered to prevent any load, contents, or litter from being blown or deposited upon any public place, public area, or private property.

**(c) Prima Facie Evidence**

Whenever litter is thrown, deposited, dropped, blown, or dumped from any vehicle, it shall be prima facie evidence that the operator of said vehicle shall have violated this By-law.

#### 4. DERELICT VEHICLES

- (a) In no event shall the number of derelict vehicles per individual property exceed two (2).
- (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.
- (c) In no event shall any derelict vehicle be parked on any one premise for a period of more than two (2) years.
- (d) Derelict vehicles are to be completely covered with a tarpaulin.
- (e) Any derelict vehicle, which is parked or left standing on private property in contravention of this by-law may, after the notice procedure having been followed pursuant to Part 4, and no appeal having been made, or if an appeal made, such appeal having been denied, may be removed from the property by the City and may be impounded and stored in such facilities as the City, by Resolution of Council may determine.
- (f) Unless a derelict vehicle(s) is soon taken out of the pound, the City may, upon the expiration of 14 days after the removal and impoundment, destroy or sell the derelict vehicle(s). The proceeds of a sale shall form part of the general revenue of the City.
- (g) City of Dauphin shall be entitled to charge for costs and charges incurred for towing, impounding, storing, destroying or otherwise disposing of such derelict vehicles(s) in such amount as may from time to time be authorized and approved by Council. Said costs and charges may be recovered in like manner as taxes or a debt, or both at the option of the City.
- (h) The owner, or the person entitled to possession of a derelict vehicle(s) removed and impounded under Subsection (e) may take the derelict vehicle out of the pound by first paying the City, within 14 days of the date off impoundment, the charges outlined in Subsection (g) should the owner be permitted to keep the vehicle within the Municipality.

#### 5. WASTE RECEPTACLES

- (a) **Placement and Servicing of Receptacles Under the Jurisdiction of the City**  
The City shall provide adequate litter receptacles as determined by the City Engineer in prominent and easily accessible locations in public places and shall be responsible for the servicing and maintenance of these receptacles.
- (b) **Placement and Servicing of Receptacles in Public Areas**  
Owners and tenants in lawful control of a public area shall provide litter receptacles in appropriate and easily accessible locations and shall be responsible for the servicing and maintenance of these receptacles.

**6. MERCHANTS AND PROPRIETORS OF PLACES OF BUSINESS**

- (a) Persons owning or occupying places of business shall keep the sidewalk and boulevard in front of and flanking, and the lane at the rear of their business premises free of litter.
- (b) Every proprietor of any place where chicken, pizza, hamburgers, hot dogs, French fries, popcorn, potato chips, chocolate, candy, soft drinks, ice cream or other like foodstuff or refreshments are sold in cartons, containers or papers, and the business is carried on under such circumstances that cartons, containers or papers are discarded in the vicinity by patrons of the place, shall keep his premises and all public or private lands, areas, streets, lanes or passageways within a distance of 15 metres from his premises free of all discarded cartons, containers, or papers by collecting and disposing of the same.
- (c) Where a business described in Subsection 6(b) is carried on in any place, all discarded cartons, containers and papers, or a kind used in the business, that are found within the 15 metres distance from the place pursuant to Subsection 6(b) shall be presumed to have been used for the sale of goods sold in that place, and to have been discarded by patrons thereon.
- (d) No person shall in any public place abandon a shopping cart or leave a shopping cart unattended.

**PART THREE  
GENERAL REQUIREMENTS**

**1. General Duties and Obligations**

- (a) **The Owner of every Building shall:**
  - i) Repair and maintain the Building in accordance with the Standards; or
  - ii) if the Building is a Dwelling, demolish the whole or the offending part thereof that is not in accordance with the Standards.
- (b) **Where a Designated Officer has placed or caused to be placed, a copy of an Order** upon any Premises under the authority of this by-law, no person shall remove such copy of the Order except with the consent of the Designated Officer.
- (c) All repairs to a Building shall be made in a manner accepted as good workmanship in the trade concerned and with materials suitable and sufficient for the purpose and in compliance with the Manitoba Building Code.
- (d) The Designated Officer may condemn, close up and prevent the occupancy of any Dwelling found by him or a health officer to be in an unsanitary and/or unsafe condition.
- (e) Where an Owner of any Dwelling fails to make the Dwelling conform to Standards or fails to demolish all or any part of a Dwelling as directed by the Designated Officer, the City may make the Dwelling conform or may demolish all or any part of the Dwelling and may add the cost of the work to the tax roll as taxes for the current year, and collectable as taxes.

## PART FOUR ADMINISTRATION

### 1. INVESTIGATION/NOTICE/APPEAL

- (a) Investigations under this By-law shall be completed by the Designated Officer who shall investigate based on a complaint basis and/or regular patrol of the City.
- (b) Upon inspection, if the Designated Officer determines that the Premises do not comply with the Standards described herein, or in the Manitoba Building Code, the Designated Officer shall issue a “**NOTICE OF VIOLATION**” respecting same and deliver a copy to the registered Owner and/or the Occupier, of the Premises (Schedule “A”).
- (c) Said Notice shall be forwarded by Regular Mail and contain the following:
  - (i) The names of the registered Owner and/or Occupier, of the Premises.
  - (ii) Description and location of Premises.
  - (iii) A description of the situation in contravention of the By-law and which section of the By-law has been contravened.
  - (iv) Remedial work required.
  - (v) The length of time allowed to remedy the situation.
  - (vi) That if the required work is not completed then the cost will be charged to the owner as per Section 2 of Part 4.
- (d) In the event that the action specified in the NOTICE has not been taken by the specified date, an **ORDER TO COMPLY** (Schedule “B”) shall be directed to the registered Owner and Occupier, if any, and contain:
  - (i) Action required to be taken in order to remedy the contravention, including, if applicable, an order to demolish all or part of the Premises;
  - (ii) the final date specified for remedying contravention, being fourteen (14) days from the date of Order;
  - (iii) the final date for filing a notice of objection to the Order by the registered Owner and/or Occupier; (being fourteen (14) days from the date of Order);
  - (iv) notice that owner’s non compliance would result in the City carrying out the terms of an Order as issued by the Designated Officer and that any costs incurred the City to be an amount owing to the City and charged to the Owner as per Section 2 of Part 4 of this Bylaw.
  - (v) a copy of the Notice of Objection (Schedule “C”);
  - (vi) a copy of the penalty provision of this by-law;
  - (vii) such other information or direction as the City of Dauphin deems appropriate.
- (e) The City shall serve a true copy of any **Order To Comply** (Schedule “B”) issued under this Part on the owner(s) and/or occupier(s) of the subject premises in one or more of the following manners:
  - (i) Personal service on the owner(s) and/or occupier(s) or on any officer, director or attorney for service of same;

- (ii) Certified mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known address;
  - (iii) Registered mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known address;
  - (iv) E-mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known email address,
  - (v) Fax service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last known facsimile number;
  - (vi) Attaching same to a prominent place on the subject premises;
  - (vii) Personal service shall be deemed to have been effected on the date of service;
  - (viii) In all other manners of service, whether inside or outside the Province of Manitoba, service shall be deemed to have been effected on the 5<sup>th</sup> day after the document has been mailed, e-mailed, faxed or attached.
- (f) If for any reason written notice cannot be given, notice may instead be given by posting it in the City Office and on the property and/or vehicles in question for at least fifteen (15) days.
- (g) When a property owner files a Notice Of Objection - Schedule "C" with the City of Dauphin, the following shall occur:
- i) An appeal of the Order is deemed to be commenced;
  - ii) The City shall set a date, time and place for the hearing of the appeal and serve notice of same on the appellant by registered mail;
  - iii) The tribunal set to hear the appeal shall be the Council of the City of Dauphin;
  - iv) The hearing may be adjourned from time to time as Council may decide;
  - v) If the appellant fails to appear at the hearing, the appeal shall be dismissed, the Order automatically affirmed and the enforcement reinstated retroactive to the dates specified therein;
  - vi) After hearing the appeal, Council may:
    - a) Affirm the Order
    - b) Rescind the Order if the appellant has since complied; or
    - c) Vary the Order at its discretion.
- (h) Council's decision is final on the issue and not subject to further appeal.
- (i) Where the Designated Officer deems that any condition or situation existing in a public place or in a public area or on private property of another person may be a nuisance, emergency, immediate dangerous concern and or a health concern, the owner shall have no right to file a Notice of Objection.

## 2. REMEDIAL WORK

### (a) Remedial Work Carried Out by City on Private Property

Where any owner, agent, lessee or occupier who has been given a notice, order or direction by the Designated Officer to do any act or thing to remedy any situation or condition existing on his or her property contrary to any part of this By-law, and who neglects or refuses to comply with such notice, order or direction within the time specified, the Designated Officer may order the work carried out and charge the

cost of the work done and any other costs incurred for the enforcement of this By-law, to the owner, agent, lessee or occupier, and in default of payment:

- i) recover the cost and any other costs incurred for the enforcement of this bylaw as a debt due to the City; or;
- ii) charge the cost and any other costs incurred for the enforcement of this bylaw against the land concerned in the same manner as a tax may be collected or enforced under this by-law, or,
- iii) both (i) and (ii).

**(b) Remedial Work Carried Out by City in Public Places, Public Areas and on Private Property**

Where any person who has been given a notice, order or direction by the Designated Officer to do any act or thing to remedy any situation or conditions existing in a public place or in a public area or on private property of another person, contrary to any part of this By-law, and who neglects or refuses to comply with such notice, order or direction within the time specified, the Designated Officer may order the work carried out including demolition, if necessary and charge the cost of the work done to the person in receipt of such notice, order or direction, and in default of payment:

- i) recover the cost and any other costs incurred for the enforcement of this bylaw as a debt due to the City, or,
- ii) charge the cost and any other costs incurred for the enforcement of this bylaw against the land concerned in the same manner as a tax may be collected or enforced under this by-law or,
- iii) both (i) and (ii).

**(c) Emergency, Nuisance And/Or Health Concern**

Where the Designated Officer deems that any situation or condition existing in a public place or in a public area or on private property of another person may be a nuisance, emergency, immediate dangerous concern and /or a health concern, the Designated Officer *may waive the 14 day appeal procedure and order the City to carry out the remedial work and charge the cost of the work done as per Section 9(a) & (b) above.*

- (d)** The City and its employees and agents may enter upon any property whether private or public, to remedy a contravention of this by-law.
- (e)** The City may order the evacuation of all Persons from the premises and close the premises until conformance is achieved, and incidental thereto, the City has the right to enter upon the premises and use reasonable force to remove all occupants therefrom.

**PART FIVE  
PENALTIES**

1. Notwithstanding any other remedies available to the City under this bylaw, any person

who contravenes or disobeys, or refuses or neglects to obey any provision of this By-law is guilty of an offence and is liable to a fine not exceeding One Thousand Dollars (\$1000) and costs, to imprisonment for a term not exceeding six (6) months, and to both such a fine and such an imprisonment, and costs.

Minimum fines hereunder shall be:

1<sup>st</sup> Offence - \$100

2<sup>nd</sup> Offence - \$300

3<sup>rd</sup> Offence - \$500

2. Where the contravention, 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.

## **PART SIX REPEALS**

1. City of Dauphin By-law 26/2000, on third reading hereof, is hereby repealed.
2. This Bylaw shall come in full force and effect on the 29<sup>th</sup> day of June, A.D. 2004.

**DONE AND PASSED by the Council of the City of Dauphin in Regular Session assembled at the City of Dauphin, in Manitoba, this 28<sup>th</sup> day of June, A.D. 2004.**

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**Alex Paul**  
**Mayor**

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**Brad D. Collett**  
**Chief Administrative Officer**

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**READ A FIRST TIME this 14<sup>th</sup> day of June, A.D., 2004.**

**READ A SECOND TIME this 28th day of June, A.D., 2004.**

**READ A THIRD TIME this 28<sup>th</sup> day of June, A.D., 2004.**

## Schedule "A"



### Notice Of Violation

**Under The City of Dauphin Minimum Standard Of Maintenance For Dwellings And Other Structures, And To Regulate Yards, Nuisances, Litter, and Derelict Vehicles By-law No. 07/2004**  
[Section 239 Municipal Act]

<b>On Property located at:</b>			
			<b>Reference #</b>
<b>Legal Description:</b>	<b>Lot</b>	<b>Block</b>	<b>Plan</b>
<b>Date of Notice:</b>		<b>Roll No.:</b>	
<b>Registered Owner:</b>		<b>Occupier (Tenant) , if any:</b>	
<i>Address (If different from above)</i>			
<b>Date of Inspection made by Designated Officer in response to a complaint:</b>			
<b>Description of Non-Compliance(s):</b>			
<b>WE REQUEST THAT YOU RECTIFY THE SITUATION IN THE FOLLOWING MANNER:</b>			<b>TO BE COMPLETED BY:</b>
<p>In accordance with Section 239(1) of The Municipal Act, the City will enter onto the Property 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 the By-Law. 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 and added to the owner's taxes. Your co-operation and assistance in this matter is appreciated.</p> <p>Notwithstanding the foregoing, the City may also choose at its sole discretion, to prosecute any breach of this by-law.</p>			
<b>DATE OF YOUR SECOND INSPECTION WILL BE:</b>		<b>If you have any questions, please call:</b>	
		622-3225	
<b>Date:</b> _____		<b>Marlin Michaluk, By-law Enforcement Officer</b> (Designated Officer)	

## Schedule "B"



**Order to Comply**  
**Under The City of Dauphin Minimum Standard Of Maintenance**  
**For Dwellings And Other Structures, And To Regulate Yards,**  
**Nuisances, Litter, and Derelict Vehicles By-law No. 07/2004**  
 [Section 242 The Municipal Act]

(to be delivered by Registered Mail or Personal Service)

<b>On Property Located At:</b>		<b>Reference #</b>
<b>Legal Description:</b>		<b>Roll No.:</b>
<b>Registered Owner:</b>	<b>Occupier, (Tenant) if any:</b>	
<b>Address</b> (if other then above)		
<p><b>Further to the Notice sent to you on _____, a second inspection of your Property found that it continues to be in violation of the City of Dauphin Dwelling Maintenance, Litter and Unsightly By-Law.</b></p>		
<b>Description of Contravention:</b>		
<p><b>Order to Comply:</b>          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 City of Dauphin Minimum Standard Of Maintenance For Dwellings And Other Structures, And To Regulate Yards, Nuisances, Litter, Derelict Vehicles and Abandoned Properties By-law No. 07/2004.</p>		
<b>Action required to remedy contraventions:</b>		
<b>Date of Order:</b>	<b>Type of non-compliance:</b>	<b>TO BE COMPLETED BY:</b>
	<input type="checkbox"/> Immediately Dangerous <input type="checkbox"/> Other	

**Non Compliance with this Order:**

In the event that you do not comply with this Order, please note that 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 and added to the owner's taxes.

Notwithstanding the foregoing, the City may also choose at their discretion, to prosecute you in addition to the above.

**Appeal:**

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

**If you have any questions, please call: 622-3225**

Date: \_\_\_\_\_

\_\_\_\_\_  
**Marlin Michaluk, By-law Enforcement Officer**  
 (Designated Officer)

**FOR OFFICE USE ONLY:****NOTICE OF CORRECTION OF NON-COMPLIANCE:**

- :  completed by Owner/Occupier on \_\_\_\_\_  
 not completed and objection filed on \_\_\_\_\_

**Result of objection and action taken:**

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature (By-Law Enforcement Officer)

**Attachments:**

- Copy of previous notice, if served
- Copy of NOTICE OF OBJECTION form
- Copy of the penalty provisions



**Schedule "C"**

**NOTICE OF OBJECTION**

**IN THE MATTER OF** the Minimum Standard Of Maintenance For Dwellings And Other Structures, And To Regulate Yards, Nuisances, Litter, Derelict Vehicles and Abandoned Properties  
 By-law No. 07/2004 of the City of Dauphin.

**To: The City of Dauphin**

**PLEASE TAKE NOTICE** that the undersigned Appellant hereby appeals to the Council of the City of Dauphin regarding the Order to

made by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,  
 20\_\_\_\_, respecting the Premises known as \_\_\_\_\_.

Dated at the City of Dauphin this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Name of Appellant** (Please print)

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

\_\_\_\_\_  
**Address**

