

RURAL MUNICIPALITY OF GIMLI

BY-LAW NO. 18-0005

BEING a by-law of the Rural Municipality of Gimli to establish property maintenance standards for Dwellings, Structures, Properties and Derelict Vehicles

WHEREAS *The Municipal Act* reads in part as follows:

232(1) A Council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (c) subject to Section 233, activities or things in or on private property;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
- (0) 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

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, odors, unsightly property, fumes and vibrations.

234 Without limiting the generality of Section 232(1)(f), property adjacent to highways or municipal roads, a bylaw passed under that clause may include provisions respecting signs, survey monuments, landscaping and setbacks, including;

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- (a) the growing of trees and shrubs and the construction of improvements;
- (b) the control and removal of trees, shrubs, weeds, grass, snow, ice and obstructions, and
- (c) the construction, repair, and removal of fences and snow fences.

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; and
- (b) remedying contravention of by-laws, including
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge, or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - (iii) providing that an amount owing under sub-clause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act,
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under sub-clause (iv)
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.

239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;
- (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

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AND WHEREAS it is deemed expedient to pass a bylaw for the purpose of maintaining a standard of maintenance for dwellings and other structures, and regulating and abating nuisances, unused vehicles, litter, and unsightly properties.

NOW THEREFORE the Council of the Rural Municipality of Gimli in session assembled enacts as follows:

1. THIS by-law be cited as the "Property Maintenance Standards By-Law"

2. Definitions:

2.1 ANIMAL AND AGRICULTURAL WASTE means manure, crop residues and like material from agricultural pursuits, stables, kennels, veterinary establishments and other such premises.

2.2 BOULEVARD means, that portion of a highway, on either side or in the centre thereof, that is adjacent to the traveled portion thereof or incorporates a ditch or a swale in a residential area which may be leveled and maintained for the purpose of improving the appearance of the highway

(a) by the planting thereon of grass, flowers, trees, or shrubs, or all or any of those things, or

(b) by paving or otherwise surfacing it, or

(c) by treating part thereof as stated in clause (a), and part thereof as stated in clause (b), and by regularly cutting the grass thereon, if any, and trimming, pruning, or otherwise caring for the trees, shrubs, and flowers;

2.3 COUNCIL means, council duly elected in the Rural Municipality of Gimli.

2.4 DERELICT VEHICLE means, any vehicle that;

(a) it is not in operating condition

(b) it does not have attached and exposed thereon, on or more permit plates issued under The Highway Traffic Act for the current registration year under

(c) it is kept in the open, and

(d) the owner thereof either has abandoned it; or

(e) the owner is keeping primarily for the purposes of salvaging or selling parts there from, or the eventual sale thereof as scrap metal; and a derelict vehicle also



includes the body or chassis of a used motor vehicle all or some of the parts of which have been removed, and to which clauses under the derelict vehicle apply

2.5 DESIGNATED OFFICER means a person prescribed by a bylaw of the Rural Municipality of Gimli 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 Rural Municipality of Gimli and is partially or wholly responsible for public safety, fire safety, building safety and/or property standards within the Rural Municipality of Gimli.

2.6 DWELLING means a building or portion of a building designed for and intended to be used for residential occupancy.

2.7 DWELLING UNIT means a building or portion of a building designed or used for residential occupancy by a single family, including cooking, eating, living, sanitary and sleeping facilities.

2.8 FENCE means a railing, wall or other means of enclosing a yard and includes barriers and retaining walls.

2.9 GARBAGE means animal and vegetable waste, including food packaging material and residual food materials, resulting from the handling, preparation, cooking and servicing of foods in the household, institutions and commercial concerns, and market waste resulting from the handling, storage and selling of foods in wholesale and retail stores and markets.

2.10 HAZARDOUS WASTE means a product, substance, or organism that

- (a) is prescribed, designated, or classified as hazardous waste in the regulations or
- (b) by its nature conforms to the classification criteria for one or more classes of hazardous wastes as set out in the regulations (Dangerous Goods Handling and Transportation Act and Regulations)

2.11 HEALTH HAZARD means

- (a) a condition of a place or premises
- (b) a plant, animal or other organism
- (c) a substance or thing
- (d) a solid, liquid, gas or any combination of them
- (e) an activity, condition, or process



That presents or might present a threat to public health (Provincial Health Act)

2.12 LITTER means waste products that have been disposed of improperly at an inappropriate location, usually unsightly, likely to cause a public health hazard or nuisance, unacceptable and/or offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.

2.13 NUISANCE means any condition which is or may become injurious or prejudicial to health or hinder the suppression of disease, or which is offensive.

2.14 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 (Municipal Assessment Act)

2.15 ORDER means an order as outlined in this bylaw, and includes but is not limited to an Order to Demolish, Order to Repair, and Order to Comply

2.16 PERSON means, an individual, firm, partnership, association, corporation, company or organization, of any kind.

2.17 PREMISES include a building or accessory building and any lands on which the building is situated

2.18 PUBLIC PLACE means any and all roadways, 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 municipality.

2.19 PUBLIC RESERVE means, any land which vests in a municipality and which is dedicated to the public, including shore lands designated in a development plan by-law as land to be dedicated upon subdivision as a Crown reserve or a public reserve

2.20 REGISTERED OWNER MEANS IN RESPECT OF LAND, A PERSON WHO

(a) is the owner of an estate in fee simple in land that is subject to the Real Property Act

(b) is the owner of an estate in fee simple in land that is not subject to the Real Property Act and who is the grantee named in a valid conveyance of land that is registered under the Registry Act or

(c) is registered under The Condominium Act as the owner, as defined in that Act, of a unit under that Act (Municipal Assessment Act)

2.21 REPAIR includes taking the necessary action to bring any building or other structure up to the standards required by this bylaw

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2.22 ROADWAY means, any place or way including any structure forming part thereof, which the public is ordinarily entitled or permitted to use for the passage of vehicles, with or without fee or charge therefore, but does not include a highway, or an area designed or intended and primarily used for the parking of vehicles.

2.23 SIDEWALK means, footpath, whether or not paved or improved, that is intended primarily for the use of pedestrians and that either

(a) forms part of that portion of a highway that lies between the curb line or, if there is none, the lateral boundary line of the highway, and the adjacent property lines; or the straight production of the adjacent property lines to the curb line or if there is none, to the lateral boundary line, of an intersecting highway; or

2.24 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, light standards and similar items. Examples of structures include rails, coach bodies, storage containers, railcars, semi-trailers,

2.25 UNSAFE STRUCTURE means, any structure, that is at risk of collapse or otherwise dangerous to public safety or property.

2.24 UNSIGHTLY PROPERTY means, a property which is detrimental to the surrounding area, including but not limited to the growth of weeds so that the same becomes a nuisance to adjoining properties.

2.25 VACANT PROPERTY means, any property that does not have a residence or if there is situated upon said land a residence to which there is no occupancy.

2.26 WRITTEN COMPLAINT means, any written report received by any municipal official, by-law enforcement officer/designated officer or Municipal Inspector; or a complaint filed in writing with the municipality or a complaint telephoned to the municipality and recorded in writing by an employee of the municipality in a manner which state the civic address at which the complaint is directed, the nature of the complaint, and the name, address and phone number of the person complaining.

3. APPLICATION

3.1 This by-law applies to all property and to all owners and occupiers of property within the Rural Municipality of Gimli except those properties exempted under certain conditions as per the Municipal Act. See Section 233.1 (2)

4. PROPERTY STANDARDS



4.1 ITEMS IN YARDS

No owner or occupier of property shall permit on such property, and each owner or occupier of property shall keep such property free and clear of:

- (a) Garbage and litter
- (b) Household Appliances whether or not the same are capable of operation
- (c) Construction or renovation waste
- (d) Unsightly, unmaintained or dilapidated building(s) or structure(s) emitting odor and the like matter that may be detrimental to the health, safety and comfort of the residents of the Rural Municipality of Gimli
- (e) The storage of derelict vehicles, wrecked, dismantled, partially dismantled, inoperative, discarded, or unused vehicles, trailers and other machinery, unless the said property and/or structure(s) are lawfully used and licensed as a commercial automobile dealership, service center, or salvage operation.
- (f) Regular outdoor burning, the smoke of which causes a nuisance to adjoining properties.

4.2 TREES SHRUBS AND WEEDS

- (a) The growth of weeds as defined in *The Noxious Weeds Act* so that the same become a nuisance to adjoining properties.
- (b) The growth of grass and/or dandelions to a length greater than 6 inches or to a point where dandelions turn to seed.
- (c) Fallen branches, tree limbs or brush which is unsightly or a fire hazard.
- (d) Tree limbs, branches, bush or shrubs extending beyond the owner's property line, to that of any adjacent property line, boulevard, municipal or public property, roadway, laneway or public sidewalk.
- (e) The owner, occupier shall be responsible for the trimming, removing or pruning back of the branches or other growth which project beyond the property line.

The municipality will have the authority to trim and/or remove obstructions caused by the growth of trees/shrubs that are located on private property which abuts Municipal property. These obstructions shall include any impediment to street lighting, vehicular/pedestrian traffic, signage, and intersection sight lines. This authority will also



apply to those private tree/shrubs whose roots may damage sidewalks, public streets, and any infrastructure related to the provision of public utilities.

In those instances where the Municipality has undertaken to complete this work, the costs for this work will be the responsibility of the property owner. In addition such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.

4.3 BOULEVARD MAINTENANCE

Any owner or occupier of a property shall be required to maintain and care for any boulevard, ditch or public reserve adjoining the property. The maintenance involves the mowing of grass.

Where any owner or occupier of property neglects, refuses, or fails to maintain and care for a boulevard, ditch or public reserve adjoining his property, the Municipality may, after the completion of the work, referred to above, recover the cost of the work done, and collect the amount from the Owner in any manner in which a tax may be collected or enforced under *The Municipal Act*.

4.4 BUILDING AND OCCUPANCY

- (a) No owner or occupier shall permit property, buildings or structures to remain in a condition which may cause health hazards, or be a danger to occupiers of the residence their neighbors or other persons.
- (b) No owner or occupier shall permit property to drain inadequately to a public drain or permit the pooling of standing water. No surface drainage shall be discharged on stairs or neighboring property.
- (c) No owner or occupier shall permit any deposit of any materials or matter on his property which may cause an odor which is offensive to surrounding property owners.
- (d) No owner or occupier of property shall permit the dumping of earth, snow or any other matter from their property onto any approach, sidewalk, roadway, or neighboring property, any public or municipal owned property. Snow removal by a private contractor for the sole purpose of clearing of private property must be removed from the property and taken to an approved municipal dump site by the private contractor at the time of clearing.
- (e) Every building shall be maintained free of rodents, vermin and insects.
- (f) Every foundation wall forming part of a building shall be maintained in good repair and structurally sound so as to prevent entrance of moisture, insects or rodents.



(g) 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 load.

(h) Every structure, porch, shed, stairway and fence, in or on any premises, shall be maintained in good repair so that no component thereof is broken, loose, rotted, warped, or out of alignment, so as to prevent danger to neighbors and other persons.

(i) Roofs must be kept in good repair, loose or unsecured objects, including dangerous accumulations of snow or ice or both, must be removed from the roof of a building.

(j) All eavestroughing and rain water piping shall be water-tight and be kept by the owner of the premises in good repair.

(k) All rain water from the roof of any building shall be properly disposed of in a such aa manner as to prevent dampness or damage that, in the opinion of a medical officer or inspector may be injurious to health.

(l) A walk way must be provided from the principle entrance of every building to a public street or driveway ensuring access to a public street for emergency personal.

(m) No owner or occupier shall permit any excavation, depression, or watercourse on their property to hold standing water.

5. COMPLAINT

5.1 Any municipal official, designated officer, or Inspector may determine a violation of this by-law.

5.2 Any person may allege a violation of this by-law by filing a "written complaint" with the municipality in such form and with such particulars as the Rural Municipality of Gimli may from time to time require.

6. INSPECTION

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

6.2 The Designated Officer for the Rural Municipality of Gimli is authorized to enter onto any land or premises during reasonable hours to inspect for conditions that may be in contravention to this by-law.



7. VIOLATION

7.1 Where an inspection determines that a violation of this by law has occurred, the inspector may issue a Notice of Violation, in accordance with the Compliance By-Law, in the form of Schedule C.

or

7.2 The inspector may issue a Notice of Penalty, in accordance with the Compliance By-Law in the form of Schedule D.

8. ENFORCEMENT

8.1 Where inspections reveal a failure to comply with either the Notice of violation or a Notice of penalty, the designated officer / by law officer may issue a final notice, Order to Comply in accordance with the Compliance By-Law in the form of Schedule E.

8.2 The Order to Comply requires a response of paying the penalty or to appeal the Violation in accordance with the Compliance By-Law. Schedule D

8.3 The enforcement and compliance of this by-law shall be in accordance with the Compliance By-Law of the Rural Municipality of Gimli.

9. REPEALS

9.1 That by-law 09-0008 of the Rural Municipality of Gimli is hereby repealed.

10. This by-law comes into effect on the day it is passed.

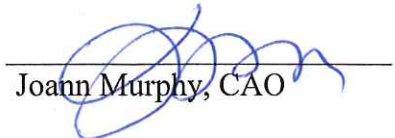
Dated and passed in Council assembled at Gimli in the Province of Manitoba this 12 day of DECEMBER, 2018.

Read a first time this 25th day of July, 2018

Read a second time this 22 day of AUGUST, 2018

Read a third time this 12 day of DECEMBER, 2018


Lynn Greenberg, Mayor


Joann Murphy, CAO

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Schedule A
Property Maintenance By-Law No. 18-0005
Order to Remedy

Civic Address: _____

Roll Number : _____

Legal Description: _____

Date of Notice: _____

Registered Owner
Mailing Address: _____

Tenant
Mailing Address _____

Date of Inspection made by designated officer in response to a complaint, concern or inspection: _____

Description of contravention: _____

We Request that you rectify the situation in the following manner: _____

To Be Completed By: _____

In accordance with section 239 (1) of the Municipal Act, A Designated Officer of the municipality will enter onto the property to conduct a second inspection after the date which the remedy was to be completed. If there has been no compliance with this Notice of Violation, an Order to Comply may be issued.

You co-operation and assistance addressing this contravention is appreciated.

Date of Second Inspection: _____

If you have any questions, please call: _____

Date:

By-Law Enforcement Officer/Designated Officer

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Schedule B
Property Maintenance By-Law No. 18-0005
Penalty Notice

(Date)

[To]

[Address]

Re: PENALTY NOTICE

Violation of Rural Municipality of Gimli By-law No. _____ [name of by-law]

CONTRAVENTION: This Penalty Notice is to inform you that I believe you are in violation of the Rural Municipality of Gimli, By-law No. _____ as follows: _____

As a result of this violation you are subject to the following penalty: \$ _____

You have until [month, day, year] ("Deadline"), to **EITHER:**

1. Pay the penalty of \$ _____; **OR**
2. Request a review by a screening officer.

PAYMENT: Payment is to be made by cheque, cash, or Bank transfer to the Rural Municipality of Gimli.

REQUEST FOR REVIEW: A request for review by a screening officer must be made by written request. If you request a review, the screening officer will review the circumstances that resulted in this Penalty Notice, as well as the information you and the by-law enforcement officer provide. After the review, the screening officer may confirm or reduce the penalty amount, cancel the Penalty Notice, or enter into a compliance agreement with you providing for you to bring yourself into compliance with the By-law .

FAILURE TO RESPOND: If you have not paid the penalty or requested a review by the Deadline, the Municipality will, after final notice to you, take proceedings against you to collect the penalty amount.

By-law Enforcement Officer

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Schedule C
Property Maintenance By-Law No. 18-0005
Final Notice

[Date]

[To]

[Address]

Re: FINAL NOTICE

Violation of the Rural Municipality of Gimli,] By-law No. _____, [name of by-law]

CONTRAVENTION: This Final Notice is issued to you that as a result of your failure to comply with the Penalty Notice issued to you for violation of the Rural Municipality of Gimli, By-law No. _____ [insert a brief description of the violation and of the section(s) of the By-law violated].

As a result, you have until [month, day, year] ("**Deadline**") to **EITHER:**

1. Pay the penalty of \$_____; **OR**
2. Request a review by a screening officer.

PAYMENT: Payment must be made by cheque, cash, or Bank Transfer to the Rural Municipality of Gimli.

REQUEST FOR REVIEW: A request for review by a screening officer must be made by [set out how the request for a review may be made]. If you request a review, the screening officer will review the circumstances that resulted in the Penalty Notice, as well as the information you and the by-law enforcement officer provide. After the review, the screening officer may confirm or reduce the penalty amount, cancel the Penalty Notice, or enter into a compliance agreement with you providing for you to bring yourself into compliance with the By-law [adjust screening officer options based on Municipality's by-law providing for screening officer's powers].

FAILURE TO RESPOND: If you have not paid the penalty or requested a review by the Deadline, the penalty amount will be due and payable immediately. Failure to pay will result in the Municipality taking collection proceedings against you to collect the penalty amount.

By-law Enforcement Officer

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Schedule D
Property Maintenance By-Law No. 18-0005
Request a Review by Screening Officer

Rural Municipality of Gimli Chief Administrative Officer:
C/O Box 1246
62 2nd Ave.
Gimli, MB
R0C 1B0

REGARDING the matter of a review to an Order to Comply under the Compliance By-Law # 18-0023
of the Rural Municipality of Gimli

Civic Address: _____ Legal Description: _____

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Rural Municipality of
Gimli regarding the Order to Comply for

Reason for appeal:

Dated at the Rural Municipality of Gimli this _____ day of _____, 20__.

Name of Appellant (please print)

Signature of Appellant

Address

YB
[Signature]