

## City of Portage la Prairie

### BY-LAW NO. 02-8144

BEING A BY-LAW OF THE CITY OF Portage la Prairie to establish a minimum standard of maintenance and occupancy for dwellings and other structures and to regulate nuisances, derelict, abandoned and unsightly property.

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;*

232(2) *Without limiting the generality of subsection (1), a council may in a by-law passed under this Division:*

- b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommend by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;*
- 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) 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,**
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- 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 and occupancy for Dwellings and other Structures, and regulating and abating Nuisances and derelict, abandoned and Unsightly Property that are detrimental to the health, safety and comfort of the residents of the City of Portage la Prairie.

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NOW THEREFORE THE COUNCIL OF THE CITY OF PORTAGE LA PRAIRIE, IN COUNCIL ASSEMBLED, HEREBY ENACTS AS A BY-LAW AS FOLLOWS:

**PART ONE**  
**INTERPRETATION, APPLICATION AND DEFINITIONS**

**1. Citation**

This by-law may be referred to as "The Maintenance and Occupancy By-Law".

**2. Scope**

This by-law adopts the Manitoba Building Code, the Manitoba Fire Code, and the Canadian Electrical Code.

**3. Continuing Consolidation**

- 1) The Manager of Administration may cause to be prepared and printed, and kept up to date, a continuing consolidation of this by-law, and indices and appendices thereto, and may make such arrangements with respect thereto, and with respect to matters incidental thereto, as may be required.
- 2) Where a continuing consolidation of this by-law is prepared, all approved revisions thereto shall bear the designation and be located as follows:
  - a) When a specific portion has been amended or replaced by an amending by-law, the designation '[AM. B/L #]' shall be inserted immediately following the affected block of text.
  - b) When a specific portion has been repealed or deleted by an amending by-law, the designation '[REP. B/L #]' shall be inserted adjacent to the current section, subsection, paragraph or clause number in place of the removed text.
  - c) When a new portion has been enacted herein by an amending by-law, the designation '[EN. B/L #]' shall be inserted immediately following the added block of text.
  - d) When any of the designations referred to in paragraphs a), b), and c) above are inserted within the text of this by-law, the figure '#' shall be replaced by the actual number of the respective amending by-law.
  - e) Where more than one clause, paragraph, or subsection of any particular section is affected by the same amending by-law, the designation may be placed at the end of each clause, paragraph, or subsection so affected or, at the left aligned margin of the paragraph, subsection, or section so affected, whichever is deemed to have more clarity in each particular instance.

4. **List of Schedules:**

- 1) Schedule "A" - Notice of Violation Under Maintenance and Occupancy By-Law
- 2) Schedule "B" - Order to Comply with Maintenance and Occupancy By-Law
- 3) Schedule "C" – Notice of Objection by Appellant
- 4) Schedule "D" – Conversion Chart

5. **Amendment Of Schedules**

Council of the City of Portage la Prairie may from time to time, by resolution, amend each and every schedule attached to this by-law.

6. **Interpretation**

In all parts of this by-law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

Unless otherwise expressly provided, or unless the context otherwise requires, words and expressions in this by-law have the same meaning as the same words and expressions in The Manitoba Building Code, The Manitoba Fire Code, The Canadian Electrical Code, and The Municipal Act.

7. **Conflict With Other By-Laws**

Where a provision of this by-law conflicts with a provision of another by-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public prevails.

8. **Application**

This By-Law applies to all Property and to all Owners and Occupiers of Property within the City boundaries.

9. **Definitions**

- 1) "Accessory Building" means a Building or Structure that is,
    - i) appurtenant to a main Building forming part of a Dwelling, and
    - ii) located on the same lot as a main Building and includes a Building or Structure partly or wholly attached to the main Building.
  - 2) "Basement" means that portion of a Building between two floor levels which is partly underground but which has at least one-half of its height from finished floor to finished ceiling above adjacent finished grade, as approved by the City.
  - 3) "Building" means any Structure used or intended for supporting or sheltering any use or occupancy.
  - 4) "Cellar" means that portion of a Building between two floor levels which is partly or wholly underground and which has more than one-half of its height from finished floor to finished ceiling below adjacent finished grade, as approved by the City.
  - 5) "City" means the City of Portage la Prairie.
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- 6) "Council" means the Council of the City of Portage la Prairie.
  - 7) "Designated Officer" means Building Inspector, Fire Inspector, or any other Person or agency employed by or acting for the City and partially or wholly responsible for fire safety, building safety, and Property Standards within the City.
  - 8) "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.
  - 9) "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.
  - 10) "Fence" means a railing, wall or other means of enclosing a Yard and includes barriers and retaining walls.
  - 11) "Garbage" means the same as "Rubbish".
  - 12) "Habitable Room" means any room in a Dwelling used or intended to be used for living, sleeping, cooking or eating purposes or any combination thereof.
  - 13) "Insanitary Condition" means a condition or circumstance that:
    - a) is offensive; or
    - b) is, or may be, or might become injurious to health; or
    - c) prevents or hinders the suppression of disease; or
    - d) contaminates or pollutes, or may contaminate or pollute food, air or water; or
    - e) 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 Insanitary Condition under this by-law.
  - 14) "Junk" means the same as "Rubbish".
  - 15) "Multiple Dwelling" means a building containing three or more dwelling units.
  - 16) "Non-Conformance":
    - a) "Immediately Dangerous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and which in the opinion of the Designated Officer is unsafe, or dangerous, or injurious to health.
    - b) "Hazardous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and which in the opinion of the Designated Officer is offensive or may become unsafe, or dangerous, or offensive or injurious to health.
    - c) "Non-Hazardous" Non-Conformance means a condition which does not comply with the Standards established by this by-law and is other than an "Immediately Dangerous" Non-Conformance or "Hazardous" Non-Conformance.
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- 17) "Non-Habitable Room" means any room in a Dwelling or Dwelling Unit other than a Habitable Room and includes bathroom, toilet room, laundry, pantry, lobby, common hallway, stairway, closet, Cellar, boiler room, or other space for service and maintenance of the Dwelling, for public use and for access to and vertical travel between storeys.
  - 18) "Nuisance" means any condition which is or may become injurious or prejudicial to health or hinder the suppression of disease, or which is offensive.
  - 19) "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.
  - 20) "Order" means a notice of Non-Conformance and Order to demolish or Repair a Building or clear Yards of refuse and debris pursuant to this by-law.
  - 21) "Owner" means the registered Owner of the land and Premises and includes the Person:
    - a) 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
    - b) who would so receive the rent if such land and Premises were let; or
    - c) 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
    - d) 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
    - e) who would so receive the installments of the purchase price if such land or Premises were sold under an agreement for sale.
  - 22) "Person" means an individual, firm, partnership or corporation and, where the context requires, shall include the plural as well as the singular.
  - 23) "Premises" include a Building or Accessory Building and any lands on which the Building is situated.
  - 24) "Property" means any land as defined in The Municipal Act within the City whether or not there is situated thereon a dwelling or any other building.
  - 25) "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.
  - 26) "Repair" includes taking the necessary action to bring any building or other Structure up to the Standards required by this by-law.
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- 27) "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.
  - 28) "Sewage" means a combination of the water-carried wastes from residences, business Buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.
  - 29) "Sewer/Sewage System" means the City sanitary Sewage System or a private Sewage disposal system.
  - 30) "Standards" means the Standards prescribed in this by-law for the maintenance and improvement of the physical condition and for the fitness for occupancy of any Building or other Structure or properties, or parts thereof, together with the surrounding lands.
  - 31) "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.
  - 32) "Trash" means the same as "Rubbish".
  - 33) "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.
  - 34) "Unsightly Property" means a Property which in the opinion of the Designated Officer is detrimental to the surrounding area, including but not limited to the growth of grass to a length which is unsightly or the growth of weeds so that same become a Nuisance to adjoining properties.
  - 35) "Yard" means the land other than publicly owned land around and appurtenant to the whole or any part of a Building and used or capable of being used in connection with the Building.
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## **PART TWO STANDARDS**

### **1. PROPERTY STANDARDS**

- 1) No Owner or Occupier of Property shall permit on such Property, and each Owner and Occupier of Property shall keep such Property free and clear of:
  - a) Rubbish;
  - b) Unsafe Structure(s);
  - c) Unsightly Property;
  - d) the storage of motor vehicles capable of registration under the Highway Traffic Act or the Off-Road Vehicles Act, which are not registered under either of those statutes, unless the said Property and/or Structures are lawfully used and licensed as a commercial automobile dealership;
  - e) the storage of household appliances, whether or not the same are capable of operation;
  - f) the growth of weeds as defined in *The Noxious Weeds Act* so that the same become a Nuisance to adjoining properties;
  - g) the growth of grass to a length which in the opinion of the Designated Officer is Unsightly;
  - h) wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any part thereof.
- 2) The exterior of every Building shall be maintained so as not to cause a substantial depreciation in Property values in the immediate neighbourhood.

### **2. BUILDING AND OCCUPANCY STANDARDS**

- 1) **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.
  - 2) **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.
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3) **Sound Structures**

- a) 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.
- b) 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 a professional engineer verify the structural integrity in compliance with the provisions of the Manitoba Building Code and any amendments thereto.
- c) 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.

4) **Exterior Surfaces and Openings In Dwellings**

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

5) **Porches, Sheds and Stairs**

Every porch, shed and stairway in, on, or appurtenant to, a Building 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) **Guardrails**

- a) Every interior stair that has more than three risers shall have the sides of the stair and the landing or floor level around the stairwell enclosed by walls or be protected by handrails or balustrades, except that a stair to an unfinished Basement or Cellar may have one unprotected side.
- b) Handrails and balustrades for stairs shall be at least 800mm above a line drawn through the outside of the stair nosing and 900mm above landings.
- c) Every exterior stair with more than three risers and every exterior landing or porch 600mm or more above grade and every balcony, mezzanine, gallery, raised walkway and roof to which access is provided for other than maintenance purposes, shall be protected by balustrades on all open sides.
- d) All handrails and balustrades shall be maintained in good Repair firmly attached so as to provide reasonable protection against accident and injury.

7) **Egress**

- a) Every Dwelling Unit shall have a separate access so as to provide a safe, continuous and unobstructed exit from the interior of the Building to the exterior at street or grade levels.
  - b) There shall be a secondary means of egress from every Dwelling Unit located on each floor above the second floor and for any Dwelling Units located in the Basement so as to provide safe and convenient means of egress in case of emergency.
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- c) A secondary means of egress may be required from a Dwelling Unit located on a first or second floor if in the opinion of the Designated Officer there exists a hazardous condition.
- 8) **Walls and Ceilings In Dwellings**
- a) Every wall and ceiling shall be maintained in good condition and free from holes, large cracks, loose plaster and accident hazards.
- b) The walls to a minimum of 900mm above the floor or bathtub or to a height of 1524mm above the bathtub which is equipped with a shower, shall be covered with a material impermeable to water and shall be maintained in such a condition as to permit easy cleaning.
- c) Fire separations between rooms and spaces shall comply with the Manitoba Building Code.
- 9) **Floors In Dwellings**  
Every floor shall be
- a) free of loose, warped, protruding and rotting floor boards;
- b) free of wide dirt-harboring holes or cracks and other defects that are fire or accident hazards; and
- c) maintained in a clean and sanitary condition.
- 10) **Solid Fuel Burning Appliances And Equipment**
- a) Every chimney, smoke pipe and flue shall be so maintained so as to prevent any gases, water, or any liquid from leaking into the Dwelling.
- b) The design and maintenance of solid fuel burning appliances and equipment shall conform to CAN/CSA-B365-M.
- 11) **Cleanliness**  
No Person shall maintain an Insanitary Condition in a Dwelling.
- 12) **Water**
- a) Every Dwelling shall be provided with an adequate supply of potable running water from a source connected to the municipal system, where provided.
- b) Every sink, wash basin, bathtub or shower which is used for sanitary purposes in a Dwelling shall have an adequate supply of hot and cold running water.
- c) All hot water shall be supplied at a minimum temperature of 43.3°C at the tap.
- 13) **Plumbing**  
All plumbing in a Dwelling, including plumbing fixtures, drains, water pipes and connecting lines to the water and sewer system, shall be protected from freezing, shall be maintained in good working order and Repair and free from leaks or other defects and shall meet the requirements of the Manitoba Building Code and Manitoba Plumbing Code and any amendments thereto.
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14) **Heating And Cooking**

- a) Every Dwelling shall be provided with a heating system properly installed and maintained in a safe and good working condition, capable of providing a minimum temperature of 21°C.
- b) No room heater shall be placed so as to cause fire hazard to walls, curtains and furniture, nor to impede the movement of Persons within the room where the heater is located.

15) **Electrical Services**

- a) Every Dwelling shall be connected to an electrical supply system and shall be wired for electricity.
- b) The electrical wiring, circuits, fuses, circuit breakers and electrical equipment shall be maintained at all times in compliance with the provisions of the Canadian Electrical Code.
- c) No Person shall place an extension cord directly beneath a floor covering, or through a doorway, transom, wall, ceiling or floor and no Person shall use, cause, or permit the use of, an extension cord so placed.

16) **Light**

- a) Adequate artificial light shall be available at all times in all rooms and in every stairway, hall, Cellar, and Basement in a Dwelling.
- b) All storage rooms, locker rooms, corridors, hallways and stairways in Multiple Dwellings and Rooming Houses shall be illuminated to a minimum of *1524mm* candles at all times so as to provide safe passage and to facilitate maintenance and cleanliness.
- c) Every Habitable Room above grade, except for a kitchen or bathroom shall have a window or windows, or translucent panels that face directly to the outside at least 152mm above the adjoining finished grade with an unobstructed light transmitting area of not less than ten percent of the floor area of such rooms. The glass area of a sash or sliding door may be considered as a portion of the required window area.
- d) Skylights as a sole means of lighting any room in any Dwelling are prohibited, but they may be used only as a supplementary means provided that they are constructed so as to be watertight and protected in a suitable manner against condensation.

17) **Ventilation**

- a) Unless a satisfactory alternative means of ventilation is provided, every Habitable Room shall have at least one window which can be easily opened.
  - b) Bathrooms and toilet rooms shall be ventilated with a window which can be opened and held in an open position by window hardware or by local or mechanical ventilation.
  - c) Where in a Dwelling a system of mechanical ventilation is provided in a bathroom, toilet room or kitchen, it shall be maintained in good Repair and working order at all times.
  - d) All enclosed spaces within a Dwelling shall be adequately ventilated with access of sufficient size to permit entry and fitted with a door or panel to close the opening.
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**18) Space Requirements**

- a) No Person shall use or permit the use of a Non-Habitable Room in a Dwelling for a Habitable Room purpose.
- b) Each Dwelling Unit shall have at least 7.4m<sup>2</sup> of habitable floor area for each occupant and the floor area shall be calculated on the basis of the total area of the Habitable Rooms.
- c) Each room used for sleeping purposes in a Dwelling shall have a floor area of at least 5.6m<sup>2</sup>, and shall have at least 3.7m<sup>2</sup> of floor area for each occupant.
- d) For the purposes of this by-law, no portion of the floor area of a room above which the height of the ceiling over the floor is less than 1.4m shall be included in the computation of the required floor area.
- e) The height of a room shall not be less than 2.1m over at least half the required floor area, except where, in the opinion of the Designated Officer, the total cubic area of the space to be occupied is of such dimensions that a ceiling height of less than 2.1m is acceptable.
- f) Failure to provide the minimum requirements set out in this section constitutes overcrowding.
- g) Where he thinks it necessary, the medical officer of health may affix to any Dwelling Unit or any room in any lodging house, Rooming House, hotel, or other Building, a notice stating thereon the number of Persons who may occupy that Dwelling Unit or room, and the Owner or Person in charge is responsible for ensuring that the number of Persons so occupying the unit or room conforms to the requirements of the notice.

<b>Room Heights</b>		
<b>Room or space</b>	<b>Minimum Heights, m</b>	<b>Minimum Area over which Minimum Height shall be provided<sup>(1)</sup></b>
Living room or space	2.3	Lesser of area of the space or 10.0 m <sup>2</sup>
Dining room or space	2.3	Lesser of 100% of actual floor area or 5.2 m <sup>2</sup>
Kitchen or kitchen space	2.3	Lesser of 100% of actual floor area or 3.2 m <sup>2</sup>
Master bedroom or bedroom space	2.3	Lesser of 100% of actual floor area or 4.9 m <sup>2</sup>
Other bedroom or sleeping space	2.3	Lesser of 100% of actual floor area or 3.5 m <sup>2</sup>
Unfinished Basement including laundry area therein	1.95	Area under beams in laundry areas and in any location that would normally be used for passage to laundry and storage areas
Bathroom, water-closet room or laundry area above grade	2.1	Lesser of 100% of actual floor area or 2.2 m <sup>2</sup>
Passage, hall or main entrance vestibule and finished rooms not specifically mentioned above	2.1	Area of the space.

<sup>(1)</sup> Area of the space shall be measured at floor level.

19) **Basement And Cellar Occupancy, Etc.**

- a) No Basement shall be used as a Dwelling Unit or Habitable Room unless it meets the following requirements:
  - i) the Dwelling Unit or Habitable Room meets all requirements for egress, light, ventilation and ceiling height set out in this by-law;
  - ii) floor and walls are constructed so as to be impervious to leakage of underground and surface run-off water;
  - iii) Each Habitable Room shall be separated from the heating equipment or other similarly hazardous equipment by a partition having a fire resistance rating of at least 1 hour;
  - iv) access to each Habitable Room shall be gained without passage through a furnace or boiler room.
- b) No Cellar space shall be used as a Dwelling Unit, sleeping unit or Habitable Room, excepting as a recreation room for casual use only.
- c) No camp-car, camper, tent-trailer, house-trailer, tent or other similar or temporary Structures shall be used as Dwelling Units or Habitable Rooms except if located in licensed trailer camps or tourist courts or unless otherwise permitted by the authority having jurisdiction on a temporary basis.
- d) No mobile homes or other movable Structures capable of being used as Dwelling Units or Habitable Rooms shall be occupied without prior connection to sewer, water, electrical and other services necessary for the proper operation of such mobile home or Structure and without the written permission of the authority having jurisdiction.
- e) No store, shed, commercial or industrial Building, or any portion thereof not designed and intended to be a Dwelling Unit shall be so occupied until it has been altered in compliance with this by-law, the Manitoba Building Code and the Manitoba Fire Code, and the City of Portage la Prairie Zoning By-Law.

20) **Insanitary and Hazardous Conditions**

- a) No Person shall commit any Nuisance nor permit or maintain any insanitary 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.
  - b) No Person shall occupy or let to another for occupancy, any Dwelling Unit or portion thereof which is not clean and sanitary.
  - c) 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.
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- d) 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.

## **PART THREE GENERAL REQUIREMENTS**

### **1. General Duties and Obligations**

- 1) No Person shall:
  - a) use;
  - b) permit the use of;
  - c) rent; or
  - d) offer to rentany Building that does not conform to the Standards or provisions of this by-law.
- 2) The Owner of every Building shall:
  - a) Repair and maintain the Building in accordance with the Standards; or
  - b) if the Building is a Dwelling, demolish the whole or the offending part thereof that is not in accordance with the Standards.
- 3) 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.
- 4) 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.
- 5) 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 insanitary and/or unsafe condition.
- 6) 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, collectable as taxes.

## **PART FOUR ENFORCEMENT**

[Sections 239 – 243 Municipal Act]

### **1. Enforcement of Non-Conformance Orders**

- 1) The City, by its duly appointed officers, shall be entitled to enforce this by-law as provided herein.
-

- 2) The City may enter upon any land, Building, Structure, Premises or Yard (hereinafter called the "Premises") in the City of Portage la Prairie for the purpose of:
  - a) inspecting;
  - b) determining conformance to this by-law; and
  - c) enforcement of this by-law.

In exercising these rights, the City may use reasonable force to effect its purpose.

- 3) Upon inspection, if the City determines that the Premises do not conform to the Standards described herein or in the Manitoba Fire Code or in the Manitoba Building Code, the City shall issue a NOTICE OF VIOLATION respecting same and deliver a copy to the registered Owner and/or the Occupier, if any, of the Premises. [Schedule "A"]
- 4) The above NOTICE shall contain:
  - a) the name of the registered Owner and/or Occupier, if any;
  - b) a description and location of the Premises;
  - c) the particulars of Non-Conformance, including a completion date;
  - d) the degree of Non-Conformance as defined in Section 5)b) hereof (e.g., Hazardous or Non-Hazardous).

<p><b>NOTE:</b> If the non-conformance is determined by the Designated Officer to be "immediately dangerous", the NOTICE is eliminated and an ORDER is issued directly.</p>
---

- 5) In the event that the action specified in the NOTICE has not been taken by the specified date, an ORDER shall be directed to the registered Owner and Occupier, if any, and contain:
  - a) a declaration of the action required to be taken in order to remedy the Non-Conformance, including, if applicable, an order to demolish all or part of the Premises;
  - b) a declaration that the degree of Non-Conformance is either "Immediately Dangerous", "Hazardous" or "Non-Hazardous" as defined herein;
  - c) the final date specified for achieving conformance as described in Section 6) below;
  - d) the final date for filing a notice of objection to the Order by the registered Owner and/or Occupier.
  - e) a copy of the Notice of Objection (Schedule "C");
  - f) a copy of the penalty provision of this by-law;
  - g) such other information or direction as the City deems appropriate.
- 6) With respect to Section 5)c) above, the time limit to achieve conformance from the date of service of the Order shall be as follows:
  - a) immediately in cases of Immediately Dangerous Non-Conformance.
  - b) 10 days, in cases of Hazardous Non-Conformance;
  - c) 3 weeks, in cases of Non-Hazardous Non-Conformance;

These times may be extended at the discretion of the Designated Officer provided that the registered Owner and/or Occupier, if any, is making reasonable efforts to conform.

- 7) The City shall serve a true copy of any Notice of Violation or Order issued under this Park on the owner(s) and/or occupier(s) of the subject premises in one or more of the following manners:
- a) Personal service on the owner(s) and/or occupier(s) or on any officer, director or attorney for service of same;
  - b) Certified mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last know address;
  - c) Registered mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last know address;
  - d) E-mail service on the owner(s) and/or occupier(s) or on any officer, director or attorney at the last know facsimile number;
  - e) Attaching same to a prominent place on the subject premises;
  - f) Personal service shall be deemed to have been effected on the date of service;
  - g) 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.

**[AM. by By-Law 03-8189]**

## 2. Appeals

- 1) With respect to Section 1.5)c) above, the time limit to file a Notice of Objection from the date of service of the Order shall be seven days in cases of Non-Hazardous or Hazardous Non-Conformance.

In cases of Immediately Dangerous Non-Conformance, there is no right to file a Notice of Objection.

- 2) Upon the filing of a Notice of Objection, the following shall apply or occur:
- a) the enforcement of the Order shall be stayed pending the appeal;
  - b) an appeal of the Order is deemed to be commenced;
  - c) the City shall, within 3 days of the receipt of the Notice of Objection, set a date, time and place for the hearing of the appeal and serve notice of same on the appellant by registered mail;
  - d) the hearing shall be set no later than 20 days after the filing of the Notice of Objection;
  - e) the tribunal set to hear the appeal shall be the Council of the City;
  - f) the hearing may be adjourned from time to time as Council may decide;
  - g) 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;
  - h) after the hearing of the appeal, Council may
    - i) affirm the Order
    - ii) rescind the Order if the appellant has since complied; or
    - iii) vary the Order at its discretion.
  - i) Council's decision on the issue is final and not subject to further appeal.



## **PART FIVE PENALTIES**

### **[Sec. 249 M.A. and Regulation #50/97]**

1. If the Order relates to Immediately Dangerous Non-Conformance and is not immediately obeyed, or if the Order relates to Hazardous or Non-Hazardous Non-Conformance and is not obeyed within the prescribed time, or if an appeal is determined and the Order or Council's decision respecting same is not obeyed in the prescribed time:
  - 1) The registered Owner and/or Occupier, if any, of the Premises is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.00 and, in default, to imprisonment for a term of not more than 90 days. The said Owner shall be deemed guilty of a separate offence for each and every day that he is in violation of the said Order or decision.
  - 2) Where the contravention, refusal, neglect, omission or failure continues for more than 1 day, the person is guilty of a separate offence for each day that it continues.
  - 3) 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;
  - 4) The City may enter upon the Premises and remedy the Non-Conformance itself (including the demolition of all or part of the Premises, if applicable) and charge the costs of same to the registered Owner by adding these costs to the current real Property taxes, and may obtain a judgment in the Court of Queen's Bench for repayment of same;
  - 5) The City may restrain the registered Owner and/or Occupier, if any, from continued Non-Conformance of the Order or decision by way of injunction from the Court of Queen's Bench.

## **PART SIX REPEAL**

1. **Repeal Of By-Laws**
  - 1) This By-Law repeals By-Laws No. 6390 and 7340.
  - 2) The repeal of the by-laws in the last preceding subsection mentioned shall not revive any by-law or any provision of any by-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction matter or thing anterior to the said repeal to which they would otherwise apply.
  - 3) And the repeal of the said by-laws should not affect:
    - a) any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal;

- b) nor any action, suit, judgment, decree, certificate, execution, process, Order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;
- c) nor any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter, or thing had, done, made, acquired, established or existing at the time of such repeal;
- d) nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal;
- e) nor any bond, note, debenture, debt, or other obligation made, executed, or entered into by the City at the time of such repeal;
- f) nor shall any such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

**2. Coming Into Force**

This By-Law shall come into full force and effect on the 28<sup>th</sup> day of May A.D. 2002.

DONE AND PASSED by the Council of the City of Portage la Prairie duly assembled this 27th day of May, A.D. 2002.

\_\_\_[original signed by Ian A. MacKenzie]\_\_\_  
Mayor

\_\_\_[original signed by Margaret Loewen]\_\_\_  
Manager of Administration

Read a first time this 13th day of May A.D., 2002.

Read a second time this 27th day of May A.D., 2002.

Read a third and final time this 27th day of May A.D., 2002.

---

**SCHEDULE "A"****Notice Of Violation Under Maintenance And Occupancy By-Law**  
[Section 239 Municipal Act]

On Property located at:

Legal Description:

Date of Notice:

File No.:

Registered Owner:

Occupier, if any:

Date of Inspection made by Designated  
Officer in response to a complaint:

Description of Non-Conformance(s):

Degree of Non-Conformance:

Hazardous

Non-Hazardous

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, 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.

Your co-operation and assistance in this matter is appreciated.

Date of second inspection:

If you have any questions, please call:

\_\_\_\_\_  
Designated Officer\_\_\_\_\_  
Signature

## Order to Comply with Maintenance And Occupancy By-Law

[Section 242 The Municipal Act]  
(to be delivered by Registered Mail or Personal Service)

<b>On Property located at:</b>	<b>File No.:</b>
--------------------------------	------------------

**Legal Description:**

<b>Registered Owner:</b>	<b>Occupier, if any:</b>
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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 Portage la Prairie Maintenance and Occupancy By-Law.

**Description of Non-Conformance(s):**

**Order to Comply:**  
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 Portage la Prairie Maintenance and Occupancy By-Law No. \_\_\_\_\_.

**Action required to remedy non-conformances:**

<b>Date of Order:</b>	<b>Type of non-conformance:</b> Immediately Dangerous (Immediately) Hazardous (10 days) Non Hazardous (3 weeks)	<b>To be completed by:</b>
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**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.

[see over]

**Appeal:**

You may appeal this Order in writing by filing with the City Manager of the City of Portage la Prairie **within seven 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:**

\_\_\_\_\_  
Designated Officer

\_\_\_\_\_  
Signature

**FOR OFFICE USE ONLY:**

**NOTICE OF CORRECTION OF NON-CONFORMANCES:**

: completed by Owner/Occupier on \_\_\_\_\_

not completed and objection filed on \_\_\_\_\_

Result of objection and action taken:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**Attachments:**

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

**NOTICE OF OBJECTION**

**IN THE MATTER OF** the Maintenance and Occupancy By-Law No. \_\_\_\_\_ of the City of Portage la Prairie.

**To:** The City of Portage la Prairie

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the City of Portage la Prairie regarding the Order to

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

Dated at the City of Portage la Prairie this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

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

\_\_\_\_\_  
Address

<b>SCHEDULE "D"</b>
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### CONVERSION CHART

#### For Measurements Used in This By-Law

152 mm	=	6 inches
609 mm	=	24 inches
900 mm	=	36 inches
1524 mm	=	60 inches
0.9 m	=	2.95 feet
1.4 m	=	4.59 feet
1.5 m	=	5 feet
1.95 m	=	6.39 feet
2.1 m	=	6.88 feet
2.3 m	=	7.54 feet
43.3°C	=	110°F
21°C	=	69.8°F
2.2 m <sup>2</sup>	=	23.68 sq.ft.
3.2 m <sup>2</sup>	=	34.4 sq.ft.
3.5 m <sup>2</sup>	=	37.67 sq.ft.
3.7 m <sup>2</sup>	=	39.82 sq.ft.
4.9 m <sup>2</sup>	=	52.74 sq.ft.
5.2 m <sup>2</sup>	=	55.97 sq.ft.
5.6 m <sup>2</sup>	=	60.27 sq.ft.
7.4 m <sup>2</sup>	=	79.65 sq.ft.
10.0 m <sup>2</sup>	=	107.64 sq.ft.

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