

DERELICT BUILDING BY-LAW

R.M. OF ST. LAURENT

By-law # 3/2022

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF ST. LAURENT TO REGULATE DERELICT BUILDINGS IN THE MUNICIPALITY.

1) Authority

WHEREAS Section 231 of the Municipal Act, S.M. 1996, c.58 (the Act) in the relevant part:

“The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enhance the ability of the council to respond to present and future issues in the municipality”

AND WHEREAS Section 232(1) of the Act in the relevant part:

“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;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- (c) subject to section 233, activities or things in or on private property;
- (c.1) subject to section 233.1, the condition and maintenance of vacant dwellings and non-residential buildings...”

AND WHEREAS Section 232(2) of the Act in the relevant part:

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

- (a) regulate or prohibit;
- (b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;

- (c) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;
- (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...”

AND WHEREAS Section 233 of the Act in the relevant part:

“A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provisions only in respect of

- (a) the requirement that land and improvements be kept and maintained in a safe and clean condition;
- (b) the parking and storing of vehicles, including the number and type of vehicles that may be kept or stored and the manner of parking and storing;
- (c) the removal of top soil; and
- (d) activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations.”

AND WHEREAS Section 233.1(2) of the Act in the relevant part:

“A by-law under clause 232(1) (c.1) may not regulate the condition and maintenance of vacant dwellings and non-residential buildings that are located on property that is classified as Farm Property under *The Municipal Assessment Act*.”

AND WHEREAS section 3(1) of the Municipal By-law Enforcement Act, C.C.S.M.c. M245 (the MBEA) states:

“A municipality may, in accordance with this Act, require administrative penalties to be paid in respect of the contravention of its by-laws”

2) Definitions

a.

“Building” means any structure that has been used or is intended to be used to support or shelter any use or occupancy.

“Derelict Property” means a real property upon which is located a vacant dwelling or non-residential building that is not in compliance with the R.M. of St. Laurent’s derelict building by-law.

“Designated employee” means the Chief Administrative Officer of the R.M. of St. Laurent and any employee of the Municipality to whom she or he has delegated an authority or duty granted or imposed under this By-law.

“Enforcement officer” means the by-law enforcement officer or any employee of the R.M. who has been authorized to exercise some or all of the powers of enforcement under this By-law.

“Manitoba Building Code” when used in this By-law means the building construction codes standards adopted by the R.M. of St. Laurent’s Building By-law 6/2021 and any replacement by-law.

“Owner” includes a person responsible for real property and any person

- (a) Managing a building, whether on his or her own account or as an agent or trustee of any other person;
- (b) Who would receive the rent for the building if the building were rented;
- (c) Who, despite having sold the real property under an agreement for sale, has paid any real property taxes on the property after the effective date of the agreement;
- (d) For the time being receiving installments of the purchase price of a property sold under an agreement for sale whether on his or her 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.

“Vacant” In relation to a building, means a dwelling or building that is not being used or occupied, other than in Agricultural Zones.

b. Clarification of “use” or “occupancy”

For the purpose of this By-law, a building is not being used or occupied solely by reason of

- a)** The presence of individuals in the building without the consent of the owner;
- b)** The existence of equipment or stock in trade within a building or the occasional operation of such equipment; or
- c)** The presence of individuals in the building or their use of the building in violation of:
 - a. Section 4) a.
 - b. A health hazard order issued under The Public Health Act; or
 - c. Another order issued under an Act or by-law prohibiting the occupancy or use of the building.

3) Application

This by-law applies to all property and to all owners and occupiers of property within the Municipality.

4) Complaint

- a.** Any person may allege a violation of this by-law by filing a written complaint, using the By-law Complaint Form, with the enforcement officer such form and with such particulars as the enforcement officer may from time to time require.
- b.** Upon receipt of a complaint, as aforesaid, the designated officer shall inspect all property alleged being in violation of this by-law, in such manner as shall be reasonably necessary in order to determine whether or not there has been a violation of this by-law.

5) Powers of designated employees and enforcement officers

- a.** Order prohibiting use or occupancy
 - i.** Where a vacant building does not meet the standards and requirements referred to in Schedule A, an enforcement officer or the designated employee may issue an order to the owner of the building prohibiting the use or occupancy of the building until a final inspection has been approved in respect of the building.
 - ii.** An order prohibiting the use or occupancy of a vacant building under subsection i. must not be issued solely on the basis that the gas supply, electricity supply or water supply to the building has been cut off.
- b.** Securing vacant building

Whereas a vacant building that is not in compliance with Schedule A of this By-law constitutes an emergency that affects or could affect the health or safety of persons and whereas it would be impractical or impossible to comply with the requirements for notice otherwise set out in this By-law, before taking action to remedy the non-compliance, an enforcement officer is hereby authorized to take whatever action to remedy the non-compliance, an enforcement officer is hereby authorized to take whatever actions or measures are necessary to meet the emergency and to eliminate or reduce its effects, including taking immediate action to secure a vacant building without first notifying or obtaining the consent of the owner of the vacant building so long as the owner is subsequently notified in accordance with subsection (d).
- c.** Entry prior to securing vacant building

Whereas an enforcement officer takes immediate action to secure a vacant building under subsection (b), he or she may, without notice to the owner, enter the interior of the building before securing the building to ensure that no individuals or animals would be trapped inside the building after it has been secured.
- d.** Notice to owner

Where an enforcement officer secures a vacant building under subsection (b), notice of such action shall be sent to the owner of the vacant building by ordinary mail forthwith.
- e.** Obligation of owner

Within 10 days of the notice having been mailed under subsection (d), the owner of the vacant building must take any steps necessary to bring the building into compliance with the Schedule A and Schedule B of this By-law.
- f.** Designated employees and enforcement officers may conduct inspections and take steps to administer and enforce this by-law or remedy a contravention of this By-law.
 - i.** Inspections shall be conducted after providing property owners with reasonable notice.
 - ii.** Property owners shall permit the enforcement officer or designated officer to enter any building or premises at all reasonable times with the consent of the property owners.

- iii. An enforcement officer or designated officer may enter onto land without notice to and without the consent of the owner in order to inspect a building that is boarded or appears to be vacant in order to determine
 - 1. Whether the building is vacant; and
 - 2. Whether the building complies with this By-law.

6) Warning and Orders

Where inspections reveal a violation of any provision of this by-law, the enforcement officer:

- a. May in his or her discretion give written notice of the contravention to the owner and occupier of the property regular mail substantially in the form attached as Schedule C.
- b. If the contravention continues following the warning notice, if any, provided under subsection (a) above, or in his or her discretion no such warning is provided, the enforcement officer shall issue a written order which shall:
 - i. Specify the time within which compliance shall be required;
 - ii. Advise that should compliance not be effected within the specified time, the Municipality may undertake the remediation at the expense of the owner of the property and that such expense may be collected in the same manner or enforced under The Municipal Act.
 - iii. Advise the process of appeal;
 - iv. Be substantially in the form attached as Schedule D.

7) Services of Notices or Orders

Any order issued by the designated officer under subsection 5(b) and notice of hearing issued under subsection 6(b) hereof of this by-law shall be served by personal service or by registered mail upon:

- a. The owner;
- b. The occupier, if any;
Of the property affected by order.
- c. Service made personally shall be deemed to have been made on the date of such service and service made by registered mail shall be deemed to have been made 3 days after posting. In the case of service upon an occupier, the address for mailing shall be the address of the property. In the case of an owner, the address for mailing shall be as shown on the current assessment records of the Municipality. In the case of a mortgagee, the address for mailing shall be as shown according to the records of the Land Titles Office for the area within which the property is situated.

8) Appeals

- a. Any interested person may appeal an order made by the designated officer by filing with the Chief Administrative Officer of the Municipality at any time before the time for compliance with such order an objection substantially in the form attached as Schedule E.
- b. Upon receipt of an appeal in the required form, the Chief Administrative Officer of the Municipality shall cause a copy thereof to be forwarded to the council forthwith and the council shall entertain such appeal within forty days of receipt of same by holding a hearing. Council

may hear the appeal as a committee of the whole. A notice of hearing shall be issued by council and shall be served upon the persons and in the manner specified in section 6) no later than 5 days prior to the appeal hearing.

- c. The council shall determine an appeal within 5 days of a hearing and shall serve notice of disposition forthwith upon determination, upon the interested persons. The council may:
 - i. Confirm the order of the enforcement officer;
 - ii. Vary the order of the enforcement officer in any respect; or
 - iii. Set aside the order of the designated officer.

9) Failing to comply with Order

- a. A person who fails to comply with an Order issued by a designated employee or enforcement officer requiring the person to comply with a provision of this By-law contravenes this By-law.
- b. The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing to the Municipality by the owner of the property. In addition to all other rights of collection which the Municipality by the owner of the property. In addition to all other rights of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under The Municipal Act.
- c. Any person who contravenes or disobeys, or refuses neglects to obey or comply with any order made under this by-law is guilty of an offence and is liable, to a fine not exceeding \$1,000.00 as prescribed in the Municipal By-Law Enforcement Act and set out in the Fees, Fines and Charges By-law 4/2021.
- d. Where a corporation commits an offence under this by-law, each director or officer of the corporation who authorized, consented to, connived or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the offence or offences, is likewise guilty of the offence and liable to the penalties for which provision is made in subsection (c) above.
- e. Where the contravention, refusal, neglect, omission, or failure continues for more than one day, the person or corporation is guilty of a separate offence for each day it continues.
- f. Enforcement of this by-law may be completed in a manner prescribed in the General Enforcement by-law 4/2022.

DONE AND PASSED as a By-law of the Rural Municipality of St. Laurent in the Province of Manitoba this day of May 4, 2022.

Read a first time this 16 day of March, 2022.

Reeve

Read a second time this 4 day of May, 2022 .

CAO

Read a third time this 4 day of May, 2022.

SCHEDULE A

Maintenance Standards for Vacant Buildings

Exterior walls

1(1) The exterior of every building must be constructed, repaired and maintained in a manner that

- a)** Ensures the integrity of the building envelope to protect the building from the weather and from infestations of insects, rodents, pigeons and other pests; and
- b)** Prevents a substantial depreciation in property values in the immediate neighbourhood.

1(2) Without restricting the general obligation set out in subsection (1)

- a)** All exterior surfaces must consist of materials that provide adequate protection from the weather
- b)** All exterior walls and their components, including coping and flashing, must be maintained in good repair;
- c)** All exterior walls must be free of holes, breaks, loose or rotting boards or timbers and any other condition which might permit the entry of insects, rodents, pigeons, or other pests to the interior of the wall or the interior of the building;
- d)** Exterior wood surfaces must be adequately protected against deterioration by the periodic application of paint, stain or other protective coating;
- e)** The mortar of any masonry or stone exterior wall may not be loose or dislodged; and
- f)** Loose material must be removed from exterior walls, doors and window openings.

Roofs

2(1) Roofs must be constructed and maintained so as to prevent

- a)** Rainwater or melting snow falling on the roof from entering the building; and
- b)** Rainwater or melting snow falling on the roof from a negatively affecting neighbouring buildings or properties;
- c)** Objects and materials from falling from the roof.

2(2) Without restricting the general obligation set out in subsection (1)

- a)** Roofs, including fascia boards, soffits, cornices, flashing, eaves troughing and downspouts must be maintained in a watertight condition;
- b)** Roof drainage must be controlled in order to eliminate or minimize runoff to neighbouring properties that
 - I.** Accumulates or causes ground erosion;
 - II.** Causes dampness in the walls, ceilings or floors of any portion of any neighbouring building

Foundations, walls and floors

3(1) Every wall or floor must be structurally sound and maintained in a condition so as to prevent undue settlement of the building and prevent the entrance of moisture, insects, rodents or pests.

3(2) Without restricting the general obligation set out in subsection (1)

- a) Floors must be so constructed as to effectively drain all water into a catch basin which shall be connected to a sewerage system, or a suitable drainage system;
- b) 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 normal load to which it may be subjected;
- c) Every part of a building must be kept free of standing water; and
- d) Materials that have been damaged, or show evidence of rot or other deterioration must be repaired or replaced.

Porches and stairs

4(1) Every porch and stairway within, on or attached to a building must be maintained in good repair so as to afford safe passage under normal use and weather conditions.

4(2) Without restricting the general obligation set out in subsection (1)

- a) Component parts of a porch or stairway must not be broken, loose, rotted, warped, out-of-plumb, off-level or out of alignment to the point where it created a hazard;

Guards, balustrades and handrails

5(1) All guards, handrails and balustrades shall be maintained in good repair and firmly attached so as to provide reasonable protection against accident and injury.

5(2) Exterior fire escapes must be maintained in good repair and free of obstructions.

Floors

6(1) Every floor must be maintained:

- a) Free of loose, warped, protruding or rotting floors boards;
- b) Free of holes or cracks and other defects that may be a fire, health or other hazard.

6(2) Any vertical opening on a floor, including service spaces, chutes, air vents and elevator shafts, must be covered or barricaded in a manner that prevents accident or injury.

Walls and ceilings

7 Every wall and ceiling in a building shall be maintained in safe condition and free from loose plaster and other hazards.

Fire protection systems

8(1) Unless a fire protection system has been decommissioned by permission of the Chief of the Fire Department, it must be maintained in an operational condition.

8(2) Unless a fire alarm system has been decommissioned by permission of the Chief of the Fire Department, it must be connected to an approved fire signal receiving centre in compliance with Can/ULC-S561-03, adopted and published by the Underwriters' Laboratories of Canada, so as to notify the Fire Department of a fire alarm activation in the building.

Yards

9(1) Yards surrounding a vacant building must be maintained so as to prevent drainage of water that negatively affects neighbouring properties or creates hazardous conditions.

9(2) Without restricting the general obligation under subsection (1) and as required under the Unsightly By-law 1/05, yards surrounding a vacant building must be maintained so as to prevent the accumulation of:

- a) Rubbish, garbage, junk and other debris;
- b) Wrecked, dismantled, partially dismantled, inoperative, discarded, abandoned or unused vehicles, trailers and other machinery or any parts thereof;
- c) Objects and conditions, including holes and excavations, that pose health, fire or accidents hazards.

9(3) Plants and vegetation in yards surrounding vacant buildings must be kept trimmed, as required under the Unsightly Property By-law 1/05.

9(4) Yards surrounding vacant buildings must be:

- a) Covered with sufficient ground cover to prevent erosion; and
- b) Graded in such a manner so as to prevent:
 - I. Excessive or reoccurring ponding of water;
 - II. Excessive dampness from occurring in buildings on or adjacent to the yard

Walks and driveways

10(1) Access from a public street to the principal entrance of every vacant building must be afforded by way of a walk or driveway.

Fences and accessory buildings

11 All fences and all accessory buildings on the property on which a vacant building is located must be kept:

- a) Weather resistant by the application of appropriate materials, including paint or preservatives; and
- b) In good repair.

Storage of combustible material

12(1) Unless approved in writing by an enforcement officer,

- a) Combustible materials; or

- b)** Flammable or combustible liquids or gases;
Must not be stored within a vacant building.

12(2) An enforcement officer may approve the storage of combustible materials or flammable or combustible liquids or gases pursuant to subsection (1) where they can be stored without unduly increasing the likelihood that

- a)** A fire will start;
- b)** A fire will spread; or
- c)** The safety of individuals, including fire fighters will be jeopardized.

Nuisances and unsanitary conditions

12.1(1) Nuisances and unsanitary conditions must not exist on any property.

12.1(2) The obligation imposed by subsection (1) includes the obligation to ensure that properties and buildings are kept free of:

- a)** infestations of insects, rats, mice, pigeons, and other pests or vermin; and
- b)** any condition, matter, or thing that provides or may provide food or harbourage for pests or vermin.

12.1(3) The obligation imposed by subsection (1) includes the obligation to prevent the existence of lice, bedbugs, cockroaches, silverfish or other insects in any part of a building.

12.1(4) Where infestation has occurred in contravention of subsection (2), the infestation must be abated through the use of:

- a)** traps and other self-abatement measures; or
- b)** monitored pest control program with a Certified Pest Control Agency,

until such time as the infestation has been effectively abated as determined by and to the satisfaction of the enforcement officer.

12.1(5) Where infestation in contravention of subsection (2) is abated through the use of a monitored pest control program pursuant to subclause 12.1(4)(b):

- a)** pest control records as created by a Certified Pest Control Agency must be maintained;
- b)** any part of pest control records maintained under clause (a) must not be erased, deleted, removed or otherwise obliterated; and
- c)** pest control records must be produced for review by an enforcement officer upon demand.

SCHEDULE B

Security Requirements for Vacant Buildings

In order to comply with this Schedule, the owner of a vacant building must ensure that the following requirements are met:

- a)** All doors, windows and other openings, other than the principal entrance, at the basement and main (first) floor levels must be covered in compliance with this Part with a solid piece of plywood, at least 11 millimeters thick and secured with coated spikes or screws at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
- b)** The principal entrance must be covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes or screws at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
- c)** Windows, doors and other openings at the second floor level must be covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes or screws at least 8 millimeters thick and secured with coated spikes or screws at least 75 millimeters in length, spaced not more than 150 millimeters on centre;
- d)** Windows, doors and other openings at the third floor level or higher must be either
 - i.** Covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters in length, spaced not more than 150 millimeters on centre;
- e)** Windows, doors and other openings at the third floor level or higher must be secured from inside the building; plywood applied to all other openings must be secured from the exterior;
- f)** Plywood applied to openings must be installed and maintained in a way that is weather-tight and must be protected from the elements with at least two coats of (white) paint;
- g)** All floors above the first floor must be rendered inaccessible to entry by raising fire escapes and ladders to a height of at least four meters or guarding them in some other manner acceptable to enforcement officer;
- h)** Electricity, natural gas and water must not be cut off if they are necessary to maintain fire protection systems or fire alarms; and
- i)** Where they are not necessary to maintain fire protection systems or fire alarms, electricity, natural gas and water must not be cut off except in a manner satisfactory to an enforcement officer.

SCHEDULE C

Date

File: _____

Dear Sir/Madam:

Re: Rural Municipality of St. Laurent Derelict Property By-Law

Acting upon a written complaint, the designated officer had cause to inspect your property at _____ in the Rural Municipality of St. Laurent.

Upon inspection of the property, it is apparent that a violation exists in accordance with the Rural Municipality of St. Laurent By-Law No.3/2022 due to _____.

Therefore, the Municipality requests that you rectify the situation by (describe violations/describe remedy) on or before _____.

In accordance with Section 239(1) of the Municipal Act, I will enter onto the property on _____ to conduct a second inspection. If there has been no compliance with this notice, an Order may be issued authorizing the Municipality to take actions or measures necessary to bring the property into compliance with By-law No. _____ and the costs of such actions or measures are an amount owing to the Municipality by the owner of the property. In addition to all other right of collection which the Municipality may have at law, such amounts may be collected by the Municipality in the same manner as a tax may be collected or enforced under *The Municipal Act*.

Your cooperation and assistance in this matter is appreciated.

If you have any questions, please contact the writer at stlaurentbylaw@gmail.com or (204) 646-2259.

Sincerely,

(Name)

Enforcement Officer

SCHEDULE D

Date

File: _____

Dear

Re: Derelict Property at _____

Further to my letter of (date) _____, this is to advise you that an (or a second) inspection of your property at _____ conducted on _____ found that it is (or continues to be) in violation of the Municipality of St. Laurent Derelict Building By-Law No. 3/2022 (the "By-law")

Specifically, your property contains _____ on your property which to date has not been removed/fixed.

Under the authority of Section 242(1) of The Municipal Act, you are hereby ordered to (describe order/remedy) on or before _____. In the event that you do not comply with this order, please note that **section** of the By-law provides as follows:

The costs of actions or measures taken by the Municipality to carry out the terms of an order issued by the designated officer are an amount owing the Municipality at any time before the time for compliance with such order has elapsed an objection substantially in the form attached to the By-law as Schedule F.

I trust you will govern yourself accordingly.

Regards,

(Name)

Enforcement Officer

SCHEDULE E

Derelict Building By-Law No. 3/2022 of the Rural Municipality of St. Laurent

IN THE MATTER of the Derelict Property By-Law No. of the Rural Municipality of St. Laurent.

NOTICE OF OBJECTION

To: The Rural Municipality of St. Laurent

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Rural Municipality of St. Laurent from the Order to

made by (name and title) _____ on the _____ day of _____, 20__ respecting the premises known as (address _____).

Dated at _____, Manitoba, this _____ day of _____, 20 .

Signature of Appellant (Print Name)

Address